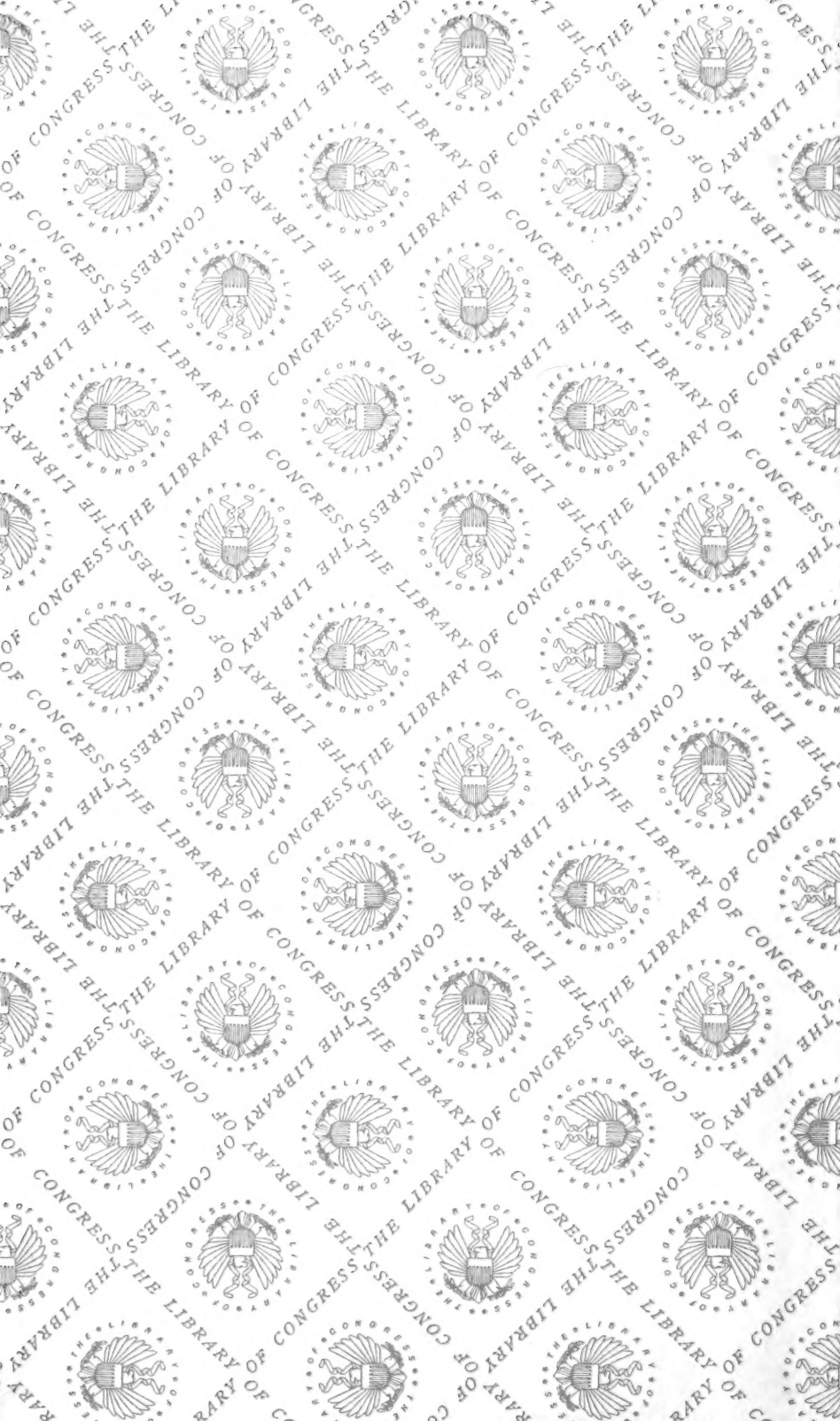
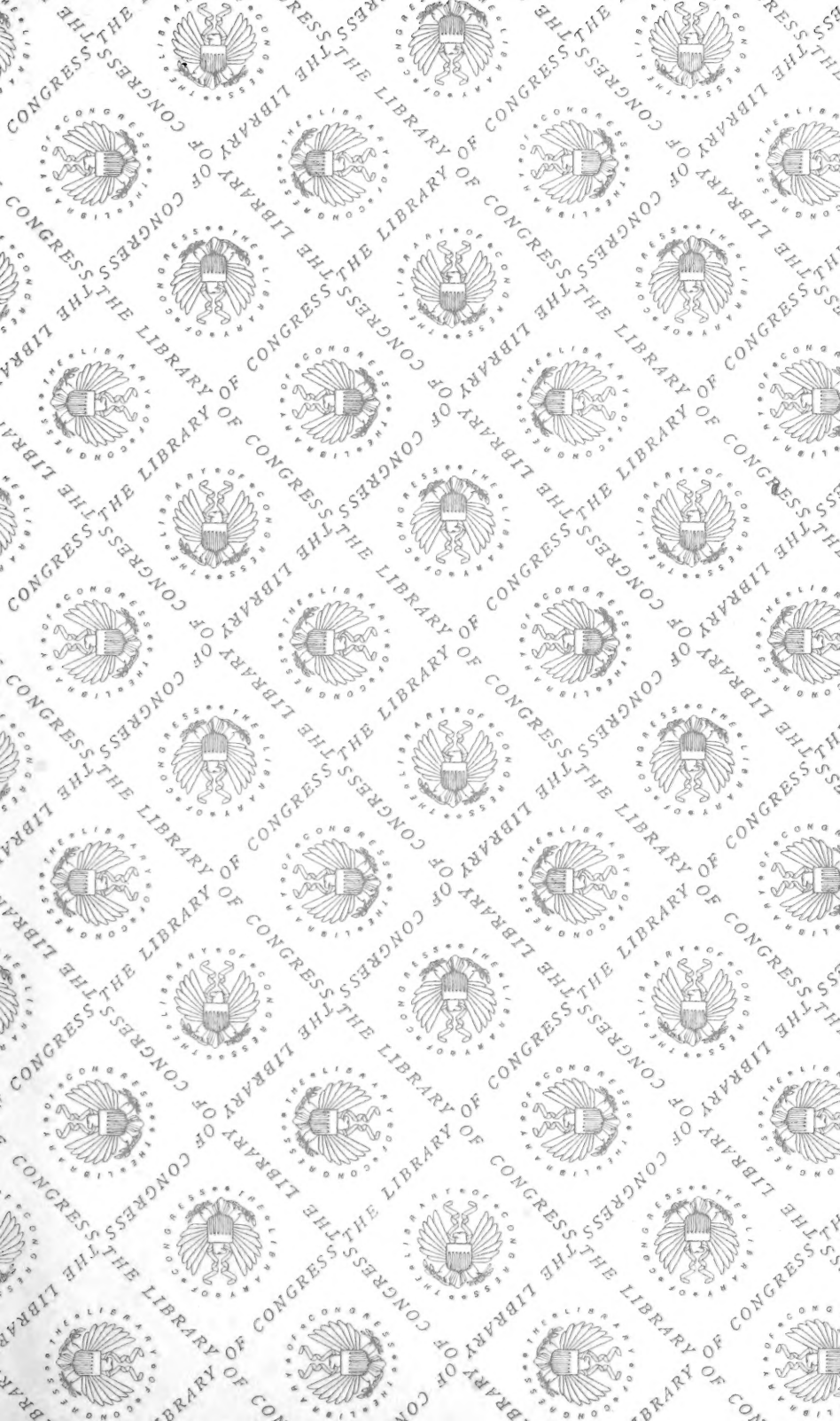


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# FUR SEAL INVESTIGATION IN ALASKA

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## HEARINGS

BEFORE A

## SUBCOMMITTEE OF THE COMMITTEE ON CLAIMS

*U. S. Cong.* HOUSE OF REPRESENTATIVES

SIXTY-FOURTH CONGRESS

FIRST SESSION

ON THE

JOINT RESOLUTION PROVIDING FOR PAYMENT FOR  
SERVICES RENDERED IN THE FUR SEAL  
INVESTIGATION IN ALASKA

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FEBRUARY 23 AND 24, 1916



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1916

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SUBCOMMITTEE OF

THE COMMITTEE ON CLAIMS

HOUSE OF REPRESENTATIVES

COMMITTEE ON CLAIMS

WASHINGTON

ON THE

JOINT RESOLUTION PROVIDING FOR PAYMENT

OF CLAIMS FOR DAMAGES TO PERSONS

INVESTIGATION

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## FUR SEAL INVESTIGATION IN ALASKA.

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SUBCOMMITTEE OF THE COMMITTEE ON CLAIMS,  
HOUSE OF REPRESENTATIVES,  
*Tuesday, February 23, 1915.*

The subcommittee met at 10.30 o'clock a. m., Hon. Hubert D. Stephens presiding.

There were present before the subcommittee Hon. John H. Rothermel, a Member of Congress from the State of Pennsylvania; Hon. John H. Stephens, a Member of Congress from the State of Texas; Mr. Henry W. Elliott; and Mr. Andrew F. Gallagher.

Mr. STEPHENS of Mississippi. Gentlemen, this hearing is on a joint resolution introduced by Mr. Stephens of Texas, providing for the payment of certain sums of money to Henry W. Elliott and Andrew F. Gallagher for services rendered in regard to the fur-seal investigation in Alaska, made by the Committee on Expenditures in the Department of Commerce.

Now, Mr. Elliott, we will hear from you first in regard to this matter.

### STATEMENT OF MR. HENRY W. ELLIOTT.

(The witness was duly sworn by Mr. Stephens of Mississippi.)

Mr. ELLIOTT. Mr. Chairman and gentlemen of the committee, on the 20th of last June the Committee on Expenditures in the Department of Commerce were in possession of the fact that if an agent of that committee could reach the seal islands without publicity he would be able to get for the use of the committee and the Attorney General certain evidence which was necessary to enable the Government to successfully prosecute the lessees of these islands and recover from them several million dollars of which the said lessees had robbed the Government during the interval of their lease, from 1891 to 1910, inclusive. The fact that the Government had been robbed had been developed in previous hearings of that committee beginning May 31, 1911, and closing July 30, 1912. These hearings developed the fact that these lessees had killed more than 128,000 seals, which were specifically accounted for, in violation of the law. But the full proof, the physical evidence of that fraud, was lacking, and it was necessary for the committee to have that full proof in order to strengthen the case in the hands of the Attorney General.

On that day, the 20th of June, 1913, the committee having these facts in its possession and the House being without a quorum—meeting day by day by a "gentleman's agreement" not to come together for a quorum until the 14th of July—the chairman of the committee, Mr. Rothermel, asked me if I could go up there as an agent of the

committee and secure that proof. I told him that if I went up without publicity, without any advertising of my errand I could get the skins and more than likely I could also get the proof from the journals of the killing which had been done, and of which sworn testimony had been taken. I outlined these facts to him, and he said that he believed it was proper for the committee to send us up; that he would call the committee together and they would consider it. The committee was called to meet that day.

Mr. STEPHENS of Texas. Would it not be well to suggest at this point that we had hearings on this matter before and the committee was in possession of the facts outside of these statements that you refer to, and you were sent up there to get the evidence to verify those facts?

Mr. ELLIOTT. Yes; I am coming to that. I am speaking now of the fact which caused me to be brought in.

The committee met on the 20th of June, 1913, and on motion of Hon. John T. Watkins the following resolution was adopted:

*Ordered*, That Henry W. Elliott is hereby appointed as a duly qualified expert to gather certain information touching the conduct of public affairs on the seal islands of Alaska as the chairman of the committee shall require, and that Andrew F. Gallagher is hereby appointed as a duly qualified expert stenographer and notary to accompany Mr. Elliott and record the details of that information as it shall be developed under the instructions of the chairman.

Mr. STEPHENS of Mississippi. Let me ask you, Mr. Elliott, are all the salient facts that you propose to present to us now set out in writing there?

Mr. ELLIOTT. They are in here; yes.

Mr. STEPHENS of Mississippi. If so it would not be necessary for you to go over the whole matter, unless the gentlemen of the committee would like to have you do so.

Mr. ELLIOTT. I was going to briefly sketch it to the committee and let this go into the record without going into the whole matter.

Mr. STEPHENS of Mississippi. Very well, do so as briefly as you can.

Mr. ROTHERMEL. Might I make the suggestion that this was done with the sanction of the Secretary of Commerce and the Secretary of the Treasury.

Mr. ELLIOTT. I was going to bring that in.

Mr. ROTHERMEL. And the fact that they had to go without authority from the House was necessary because they could not have gotten the authority in time to reach the islands at the season of the year when the seals come in.

Mr. ELLIOTT. Yes; I am going to bring that in.

Mr. SCOTT. Why was it necessary to have a committee of the House go there in order to get information upon which the Department of Justice might act?

Mr. ELLIOTT. Because there was no one in the Department of Justice who could have gone up there, and in this time, absolutely limited between the 10th and 20th of July, have secured that evidence. There was no man in the Department of Justice who possessed the knowledge and the understanding of the ground, who could have possibly gone up there and secured what I secured.

Mr. SCOTT. Why couldn't the Department of Justice employ you to go up there?



Mr. ELLIOTT. There was no time to see the Department of Justice. We had to go on this day or not at all, because it was necessary that we reach the islands not later than the 10th of July—between the 10th and 20th of July. It was absolutely necessary that we should be there at that time to secure this evidence.

Mr. SCOTT. Why?

Mr. ELLIOTT. Because that is the "height of the sealing season," the time in which the skins must be secured in order that there might not be any controversy in the courts as to their being out of season.

Mr. SCOTT. Where were you; where did you start from?

Mr. ELLIOTT. From Washington.

Mr. SCOTT. Why was it impossible to use the Department of Justice?

Mr. ELLIOTT. Because there was nobody there who could have gone up there and secured these skins.

Mr. SCOTT. But why was it impossible for you and those interested in your going to communicate with the Department of Justice? Why couldn't you communicate with the Department of Justice just as easily as with Mr. Rothermel?

Mr. ELLIOTT. Because this work had been done under the auspices of the committee. These facts had been gathered and were in the possession of the committee; the whole case centered upon that evidence, and I was the only man that knew how to get up there and get that particular physical exhibit. If we had gone into negotiations with the Department of Justice we might have gotten away perhaps by the 1st of September or October, when it would have been too late.

Mr. SCOTT. You were in the Government employ at that time?

Mr. ELLIOTT. Not at all. I was a voluntary witness for the committee, and I waited and waited for something to be done by the House, and I saw that if we had to wait so long it would have to be dropped altogether, and I told Mr. Rothermel—

Mr. SCOTT. What was your business at that time? You say you were not in the Government employ.

Mr. ELLIOTT. My business is real estate and fruit growing at Cleveland, Ohio. That has been my business for years before I came here.

Mr. STEPHENS of Mississippi. You had been in the employ of the Government years ago, had you not?

Mr. ELLIOTT. Yes; away back there. I am older than you think. I am 69 years old, and in early times I was in the Smithsonian Institution. I made an elaborate investigation at the instigation of the Smithsonian as far back as 1872, 1874, and 1876 on these islands. Then, again, I went up under authority of a special act of Congress in 1890, as a special agent of the Secretary of the Treasury and the Ways and Means Committee, and secured certain evidence, which I brought down and which they used. Then, again, I went up this time in this way. But I have never been connected with the Government as a hired employee, as a clerk, except at these brief intervals when I had to sign the pay roll as an agent of the Government going to the Islands. I have always done my work by the piece, by contract, as an artist and naturalist.

Mr. STEPHENS of Mississippi. How long have you been engaged in this particular work?

Mr. ELLIOTT. I first went up in 1872.

Mr. STEPHENS of Mississippi. I mean for which you are asking compensation now.

Mr. ELLIOTT. I have the dates here. I started on the 20th of June—on the evening of the 20th of June—and I got back here on the 22d of August and filed my report on the 31st. Then they required a supplemental statement, which was laid before the committee on October 13, when they held their first meeting after I got back. That was incorporated in the record of January 17. Following that, all of these gentlemen who are specified in these details and accused of fraud and collusion with the fraud were notified, and copies of this statement and the testimony and evidence gathered on the islands was sent to them all, from Secretary Nagel down—17 or 18 of them. They all received these notices and, with the exception of two men, they all declined to come before the committee and deny it, because they could not deny it. The two that came, the evidence shows that they simply fastened themselves deeper and firmer in the clutches of the law than they were before.

Mr. STEPHENS of Texas. Did you seize any skins up there, and, if so, what did you do with them?

Mr. ELLIOTT. Yes; the way I got the skins was this: The new administration came in on the 4th of March, 1913, and all these men who had been connected with the lessees engaged in this illegal killing—that is, the relics of them—are still on the islands. They were still in charge at that time, and they would be so until the new man appointed by the new administration could arrive there and take charge; and I knew that unless I got up there and got the work from their hands as they had been doing it for the last 20 years I would have no proof to connect them with it for the past 20 years. So I had to go up there without their knowing it. I got up there and I got 400 skins, taken just as they have been taking them for the last 20 years, by the same men, under the same direction, so that we have the physical evidence—the physical exhibit showing that they “loaded” these little skins with blubber so as to make them weigh into the class of big skins. That is the whole detail of the fraud which has been practiced on the Government for 20 years, whereby thousands and tens of thousands of small skins have been taken, “loaded” with blubber, so that they weighed as much as big skins. I got the evidence which shows that they were illegally taking the little skins of yearlings instead of the big skins of 2-year olds, which they swore they had taken. Then we took their evidence.

Mr. STEPHENS of Texas. Of the men who had been in charge for 20 years?

Mr. ELLIOTT. Yes. We got their evidence and their admissions and their specimens of the yearling skins laid down there on the table, which tallied exactly with the sales records of London. It was necessary to get them exactly as they had been taken, and by the same men; I knew that if we went up there without publicity and without their knowing that we were coming up, they would begin to take the skins as they always had done. We got up there without their knowing it, and landed. Before we landed, on July 7, they had taken 400 skins just as they have always taken them for the last 20 years. As soon as I landed on July 9, I went to the salt house, and said, “I want these skins undisturbed until I weigh and measure

them." There I had them. Those 400 skins are, to-day, in the possession of the Secretary of Commerce; and we have just got a resolution through Congress which enables the Secretary of Commerce to hold them until the Department of Justice wants them. They were taken in violation of the law. The same men who were there during the lease were there when we got there. Secretary Redfield has removed all of them since, but they were there when this work was done.

Mr. STEPHENS of Texas. In what respect did they violate this lease by the taking of these skins?

Mr. ELLIOTT. The law and likewise the lease was violated in this way. The Secretary of the Treasury, Secretary Carlisle, in 1896, issued an order, May 14, that no yearling seals should be killed and no seals having skins weighing less than 6 pounds should be taken.

Mr. STEPHENS of Texas. What about females?

Mr. ELLIOTT. Females, of course, are excepted. This refers to killable seals, those out on the hauling grounds. No yearlings should be killed and no seals having skins weighing less than 6 pounds. Now, to overcome that difficulty, and to take these little seals whose skins immediately after they are properly taken, weigh only  $4\frac{1}{2}$  pounds, they instructed the natives up there in skinning, to leave half an inch of blubber attached to the skin, so that when that little 3 or 4 pound skin was put on the scales it would weigh all the way from  $6\frac{1}{2}$  to 8 pounds. That is all admitted by these men under oath.

Mr. STEPHENS of Texas. You have the evidence of the men who did this skinning, stating that they had been so instructed, to blubber those skins in that way for the purpose of making them weigh 6 pounds or more?

Mr. ELLIOTT. Yes; that is all in the testimony.

Mr. SCOTT. Now, what did you do with that testimony?

Mr. ELLIOTT. That testimony will be used by the Attorney General.

Mr. SCOTT. He can't use that. It is not admissible in any criminal prosecution.

Mr. ELLIOTT. These men can all be brought down here to testify. I have located the men; I have got their statements and the Attorney General can subpoena them and bring them down here and use them as witnesses. But it was necessary to locate these men, and get these skins taken by these men just as they have been taking them for the last 20 years, and to do that it was necessary to go up there without publicity, because if they had known that we were coming up there, they would have skinned them properly.

Mr. ROTHERMEL. You discovered the Carlisle rules on the islands, didn't you?

Mr. ELLIOTT. Yes.

Mr. ROTHERMEL. But they were nowhere on record in Washington.

Mr. ELLIOTT. They were concealed in Washington. They have been concealed for two years by the officials in charge of the Bureau of Fisheries. Their existence had been denied to us, and of course I could not question that denial: but, I told Mr. Rothermel, among other things, that Mr. Carlisle had in these early days, issued regulations, although I could not, in the face of these sworn statements prove it; but, if I could get hold of the journals up there, the records of the facts, I could find those regulations. And I did find

them, beautifully engrossed, and I brought copies down and they are admitted now. They are in files of the bureau.

Mr. STEPHENS of Texas. The originals are found now?

Mr. ELLIOTT. Yes.

Mr. STEPHENS of Texas. Is that all in the hands of the Department of Justice?

Mr. ELLIOTT. Yes, sir.

Mr. STEPHENS of Mississippi. Has the Department of Justice taken any steps in this matter?

Mr. ELLIOTT. There were two things under consideration by the Department of Justice. The first was whether to bring a criminal indictment against these men. The statute of limitations lets out the lessees; it does not let out the Federal officials; but, we found that we could not hold these high officials with a criminal indictment because it would be necessary to show that they had full knowledge of it, although I thought that the "guilty knowledge" which they possessed, could be fastened upon them. I have been all over that with the Assistant Attorney General and it has been decided that we could not do that; but, civil suits and prosecutions to recover, are undeniably and unquestionably good.

Mr. SCOTT. To recover what?

Mr. ELLIOTT. To recover the money from these lessees for those skins which they have taken in violation of law.

Mr. STEPHENS of Texas. What bond do they have?

Mr. ELLIOTT. They have a bond; but that is only a small part of what the Government will eventually get. Not only will the Government recover the bond, which is \$500,000, but it will recover the value of each and every one of these skins which has been taken in violation of law. There are 128,000 specific skins that we have got.

Mr. STEPHENS of Mississippi. No suits have been filed have they?

Mr. ELLIOTT. Application for suit has been filed; but there is no hurry about the civil suits because they might run along for months, or a year or two, without prejudice. But the criminal matters we found that we could not carry through. I think it is right, too, the way the Federal statutes are drawn, because it is impossible for a man coming down here to know everything that the men under him do. And that is all right, although I am sorry that a certain man can not be held, because I do believe he had full guilty knowledge. We have the civil suit, and we have been assured there is no question about the validity of that. There is no hurry about that; the persons are there, and the evidence is there, and I told them, "I am ready whenever you want me."

Mr. STEPHENS of Texas. Who paid your expenses up there?

Mr. ELLIOTT. I advanced them. I never thought anything about it at the time. I had no time to discuss it, or do anything about it. I had to make arrangements with the Secretary of Commerce to land on the islands, and that was all done that day, and letters were sent after me that caught me the day I was ready to sail. Mr. Rothermel made arrangements with the Secretary of Commerce and the Secretary of the Treasury and sent their letters to me. I made arrangements to go over from Unimak Pass on the revenue cutter to the seal islands, because it was necessary that I should be there between the 10th and 20th of July, or this evidence and skins

secured would be "out of season," and I knew what that would mean in a law court.

Mr. STEPHENS of Texas. The employees would have been changed, too, if you had waited.

Mr. ELLIOTT. Yes; and we would not have had that connecting link. Now we have got the same men, the same working force that has been on the islands ever since 1899.

Mr. STEPHENS of Mississippi. I notice that the amount asked for by you as compensation for this work is \$6,182. How did you arrive at that amount?

Mr. ELLIOTT. I have it right here. This has all been gone over by the Committee on Accounts, and those gentlemen agreed upon it—Mr. Abercrombie, Mr. Ten Eyck, and Mr. Parker. They said it was all right.

Mr. STEPHENS of Texas. Did you estimate it on the amount of money you paid out and then a per diem?

Mr. ELLIOTT. I will read it to you right here. It was a difficult thing to do. I disliked very much to place a valuation on my services, but they insisted that I do so. I wanted them to fix it. I have the whole thing here:

For services as a duly qualified expert witness in attendance on the committee from June 20, 1913, to April 2, 1914; 286 days, at \$20 per diem-----	\$5,720.00
To traveling expenses and subsistence from Washington, D. C., to seal islands and return, June 20 to Aug. 27, 1913 (10,280 miles traversed), as per items, to wit:	
Railroad ticket, Washington, D. C., to Seattle, Wash.----	\$73.60
Sleeping car, Washington, D. C., to Seattle, Wash. (5 days in transit)-----	7.50
Meals (5 days in transit)-----	15.00
Seattle, 5 days subsistence and lodging-----	25.00
S. S. <i>Victoria</i> , ticket to Nome, Alaska-----	100.00
Expenses, outfit, etc., on seal islands-----	50.00
Expenses on the revenue cutters-----	50.00
Railroad ticket and return expenses, Seattle to Washington, D. C.-----	106.15
Seattle (5 days subsistence and lodging)-----	25.00
	<hr/>
	462.25
Grand total-----	<hr/>
	6,182.25

Mr. SCOTT. What was that per diem?

Mr. ELLIOTT. \$20 per day, 286 days from June 20, 1913, to April 2, 1914. I was in constant attendance on the committee during that time, preparing statements of the case for them. I will give you the evidence or some of it, and you can see in a moment what it means. Here is a syllabus of the testimony. Here is our report made by Mr. Gallagher and myself with all the details of that work all sworn to. Then here is the testimony taken.

Mr. STEPHENS of Texas. When does your employment with this committee end?

Mr. ELLIOTT. April 2, 1914.

Mr. STEPHENS of Texas. Have you been around here since that time?

Mr. ELLIOTT. Oh, yes; but that was on my own account.

Mr. STEPHENS of Texas. Is the Government paying you anything now?

Mr. ELLIOTT. No; oh, no.

Mr. STEPHENS. So the amount you are asking here is all that the Government will be out?

Mr. ELLIOTT. That is all that the Government is responsible to me for.

Mr. STEPHENS of Texas. Notwithstanding the fact that you have spent considerable time on it.

Mr. ELLIOTT. Yes, sir.

Mr. STEPHENS of Mississippi. Who helped you in this work?

Mr. ELLIOTT. Mr. Gallagher.

Mr. STEPHENS of Mississippi. Is he the only one?

Mr. ELLIOTT. He is the only one; the only assistant I have had from start to finish.

Mr. STEPHENS of Mississippi. What was Mr. Gallagher's business?

Mr. ELLIOTT. I never met Mr. Gallagher until I met him in Seattle. On the day I left Washington I told Mr. Rothermel, "I can't go up there alone. I want an assistant. I want a man of unquestioned integrity, and one who has two good stout legs under him, because he will have a lot of walking to do." I also told him, "I want him to be an accomplished court reporter, because I will take testimony up there, and the value of his notes will be absolutely essential if we have any proceedings in the Department of Justice. I want a man who is recognized as an expert reporter, so that in everything which we do up there his notes, if carried into court, will have value."

Mr. STEPHENS of Texas. I understood you to say that he was a commissioner authorized to take this testimony.

Mr. ELLIOTT. We did not need that, because there was one on the revenue cutter.

Mr. STEPHENS of Texas. And you could use that commissioner?

Mr. ELLIOTT. If necessary, we could use him; but we found it was better not to swear these natives, because it would scare them. So we took the testimony which they gave voluntarily and then had them sign it in the form of a deposition. If we had gone in there, and asked them to hold up their hand and swear, they would have been scared to death, and would not have known anything.

Mr. SCOTT. What was Mr. Gallagher's business at the time of this employment?

Mr. ELLIOTT. He was a court reporter here in Washington, and one of the very best.

Mr. SCOTT. You were living in Ohio at the time you say?

Mr. ELLIOTT. Cleveland, Ohio. I have lived there for 69 years nearly.

Mr. SCOTT. How did you happen to become connected with this matter?

Mr. ELLIOTT. In early days?

Mr. SCOTT. No; at the time you started on this trip or just before. How was your selection made?

Mr. ELLIOTT. Because I had been before the committee, you know, during the previous Congress. I brought these charges before the Ways and Means Committee, and the Ways and Means Committee took me over there. On the 11th of May, 1911, the Ways and Means Committee passed a resolution to make this investigation, and then when the charges were laid before them they found they had so much work to do with their tariff schedules, and all that sort of thing, that Mr. Francis Burton Harrison and Mr. Underwood and Mr. Rainey



decided to have me taken to Mr. Rothermel's committee. They said, "There is a little committee that has nothing to do, and that can go to the bottom of it, but we have got so much to do that we won't have time, so we will take you over there." At first I demurred to being taken to that little committee; but they said, "Don't you worry about that; they can go just as far as we can. They can go clear to the bottom of it." So I was taken over there from the Ways and Means Committee and introduced to Mr. Rothermel and I laid the charges before him. He spent nearly two weeks considering them. He went over on the Senate side and saw the Republican Senators who were back of me, and he finally said, "All right, Mr. Elliott, we will take this up." That was on May 31, 1911, and I appeared and made these specific charges. Then I demanded that these men who were guilty of these shortcomings be examined here before the committee and put under oath. That was drawn out until the 29th or 30th of July of the following year, when these hearings closed. That, of course, brought me very close to the committee, and they knew that I was thoroughly familiar with the matter.

Mr. STEPHENS of Texas. Before that time you had been connected with Secretary Hay in drawing up the fur-seal treaty, had you not?

Mr. ELLIOTT. I had been called in by John Hay on the fur-seal treaty. That is my treaty.

Mr. STEPHENS of Texas. With the object in view of stopping pelagic sealing?

Mr. ELLIOTT. Yes; and also stopping killing on the islands.

Mr. STEPHENS of Texas. Stopping killing on the islands?

Mr. ELLIOTT. Yes. These charges followed that.

Mr. STEPHENS of Texas. You had been employed by John Hay, Secretary of State?

Mr. ELLIOTT. Yes; and I was engaged with him at work on the treaty when he suddenly fell sick, March 14, 1905, two days before Senators Nelson, Dillingham, and Patterson had consented and signed the treaty draft up. Then Hay died, and the treaty laid in the State Department for seven years; the lessees got into the saddle again as soon as he died.

Mr. SCOTT. When was this bill introduced?

Mr. STEPHENS of Texas. I introduced it on the 18th, for the purpose of getting them paid. That was all.

Mr. SCOTT. Why has this resolution been delayed until the last few days of the session?

Mr. ELLIOTT. Because I asked Mr. Rothermel, April 2, 1914, not to put in this resolution for my payment until the minority report was filed. They had given notice that they would file a minority report.

Mr. STEPHENS of Texas. You had agreed that they should file a report?

Mr. ELLIOTT. Oh, yes; and we agreed, on the evening of April 2, 1914, Mr. Gallagher and myself, in the evening of that day, to the consideration of these sums by the committee. Then I asked Mr. Rothermel not to move in the matter until the minority report was filed, because there might be something in the minority report which would make it necessary for the committee to recognize. It might be necessary for me to explain something. I waited four months until that report came in, which was the 28th day of July. When

the minority report came in there was nothing in it but abuse of myself, gas and nonsense; no denial of these facts whatever, no attempt. Then I said, "Now, Mr. Rothermel, I wish you would put in my claim for compensation."

Mr. ROTHERMEL. I was authorized by the committee to make the arrangement.

Mr. ELLIOTT. Oh, yes; I know that; but I asked you to hold it up. The record shows you were authorized to do it. Then the Committee on Accounts took it up, and they found what they called "irregularities." In other words, we had not gone into the House and asked for this money. Then I brought up the Belknap precedent to show that it was not necessary to go to the House first. But I did not press it; I did not push it. I did not chase them up and it drifted along. I have the Belknap case here, and it furnishes a good and indisputable precedent for the action of the House Committee on Expenditures in the Department of Commerce, June 20, 1913.

The Belknap precedent, which occurred in 1875, is this: In December, 1875, the House Committee on Expenditures in the Department of War received information of certain rank abuses in the conduct of the Army posts, with the collusion therein of the Secretary of War, W. W. Belknap, and that certain witnesses vital to the success of the object of abating and reforming these abuses could be secured if they were secured before any advertisement of their intended seizure was made.

Now, here is the first parallel. In June, 1913, the House Committee on Expenditures in the Department of Commerce received information that certain proofs of fraud perpetrated in the seal islands of Alaska could be secured for the use of the Attorney General if steps were taken promptly to get it without publicity. So much for the first parallel.

In 1875 the Belknap committee organized and secretly sent three agents into the far West to secure the witnesses and other evidence and proof, and did so without going into the House to ask for an appropriation to meet the expense thereof.

Now, here is the second parallel. The Committee on Expenditures in the Department of Commerce organized on June 20, 1913, and secretly sent two agents to the seal islands of Alaska charged with the duty of securing the proof of that fraud.

Now, here is the third parallel. The agents of the Belknap committee in 1875 secured the witnesses and the evidence which resulted in the hasty resignation of Gen. Belknap and the complete abatement of the public abuses under him in the Army posts.

The agents of the Committee on Expenditures in the Department of Commerce in 1913 secured the proofs desired, and this evidence which is necessary for the successful prosecution by the Government to recover from parties to that fraud, is now in the hands of the Attorney General, or at his command.

Mr. SCOTT. Who would they recover from?

Mr. ELLIOTT. From the lessees of the islands, from the estate of D. O. Mills, the estate of ex-Senator Elkins, and from Isaac Liebes, who is living in San Francisco, worth eight or ten million dollars.

Mr. STEPHENS of Texas. Where does Liebes live?

Mr. ELLIOTT. In a marble palace in San Francisco.

Mr. SCOTT. You say you will collect it from these estates. These men are all dead?

Mr. ELLIOTT. The estates are living.

Mr. SCOTT. Do you expect to recover more than the bond? How much does the bond amount to?

Mr. ELLIOTT. \$500,000.

Mr. SCOTT. These men have been dead several years.

Mr. ELLIOTT. That doesn't make any difference.

Mr. SCOTT. It usually does.

Mr. ELLIOTT. But not in this case.

Mr. ROTHERMEL. Mr. Isaac Liebes is still living in California.

Mr. SCOTT. How is he connected with it; is he one of the lessees?

Mr. ELLIOTT. Yes; he was at the time these frauds were perpetrated. He was the president of the company at the beginning and, then, afterwards he put in a dummy president.

Mr. SCOTT. Was the lessee a corporation?

Mr. ELLIOTT. Yes.

Mr. SCOTT. Is that corporation alive?

Mr. ELLIOTT. Yes; it has not been dissolved that we know of. But the lawyers say that they can hold the estates, the legal representatives, for all these violations of the law. These men were alive when these violations of law took place.

Mr. ROTHERMEL. I have made inquiry and I find that the Elkins estate is tied up for 20 years. It can not be settled before that time.

Mr. SCOTT. That may be, and still the limitation within which claims could be filed might not necessarily continue. In most States the limitation within which claims may be filed expires at the end of a year. In some States it is two years.

Mr. ELLIOTT. Well, I understand that under the Federal statutes there is no limitation in a case of this kind.

Mr. SCOTT. The Federal statute would not control in that case. The State law would have priority.

Mr. ELLIOTT. Well, they can hold Mr. Liebes. He is living and is worth about \$10,000,000.

Now, here is the fourth parallel. The expenses which the Belknap committee incurred amounted to some \$8,000, and they were all paid out of the contingent fund of the House from time to time, as they were rendered.

The expenses which the committee on expenditures in the Department of Commerce incurred totalled some \$9,500, and they have been duly certified to the House Committee on Accounts, August 7 to October 7, 1914.

Here is the fifth parallel. Had the Belknap committee gone to the House and asked for an appropriation before it had taken action incurring those expenses, the publicity of its intention would have resulted in a complete failure to get that evidence, which was necessary and vital for the public good.

Had the committee on expenditures in the Department of Commerce gone to the House and asked for an appropriation before it had taken action incurring those expenses, this publicity of its intention would have resulted in defeating the very object which was otherwise successfully attained.

Mr. SCOTT. Of course it is customary, I suppose, to handle these matters from money available for the judiciary department, the matter of obtaining evidence. It is very unusual to obtain evidence through a committee of the House for the purpose of Government suits. I was wondering why this evidence was not procured in the usual way.

Mr. ELLIOTT. Because it could not have been procured in any other way except in the way I have outlined. There was nobody over there who could have gone up to the islands and gotten the evidence.

Mr. SCOTT. Why couldn't they employ you?

Mr. ELLIOTT. Because there was no time to go into negotiations. I would probably not have gotten started till September.

Mr. EVANS. Hadn't you had charges before the Department of Justice, before this matter came up?

Mr. ELLIOTT. No, sir.

Mr. SCOTT. Wasn't the Department of Justice familiar with this matter?

Mr. ELLIOTT. No, sir. I told Mr. Rothermel when we closed the hearings on July 20, 1912, that we lacked this physical exhibit of fraud, and I believed that back of that lay these records of the killing which had been concealed from us.

Mr. SCOTT. Now what does the Department of Justice at present recommend in this matter?

Mr. ELLIOTT. The Department of Justice has no recommendation to make, except to go ahead in the matter.

Mr. SCOTT. I know; but with respect to this resolution, what recommendation does the Department of Justice make?

Mr. ELLIOTT. They have had nothing to do with it.

Mr. SCOTT. They have made no recommendation?

Mr. ELLIOTT. Certainly not.

Mr. STEPHENS of Mississippi. Have you been over there?

Mr. ELLIOTT. Oh, yes.

Mr. STEPHENS of Texas. I believe you have not explained that this committee recommended to the Department of Justice the bringing of these suits and furnished them with all the evidence.

Mr. ELLIOTT. That was done, and that was my reason for going into the facts of it. That was done on the 13th of last August. And, as I stated in my opening remarks, I did labor with them. I was anxious to get criminal indictments against certain high officials, because I believed that they had guilty knowledge, but we could not hold them.

Mr. STEPHENS of Mississippi. What officials of the Department of Justice did you talk to?

Mr. ELLIOTT. Mr. Warren and Mr. Underwood, Assistant Attorneys General; with both of them.

Mr. SCOTT. I understood you to say that the purpose of this evidence which you were procuring was that it was to be used by the Department of Justice?

Mr. ELLIOTT. Yes; they can examine the witnesses because I have located them.

Mr. SCOTT. But the Department of Justice was not consulted before any of these steps were taken?

Mr. ELLIOTT. How could it be? There was no time to do it. There was no time to go into any negotiation. It had to be done at once or not at all. If we had waited the men who could give the evidence would have left the Islands.

Mr. STEPHENS of Texas. This matter was unloaded onto the Committee on Expenditures in the Department of Commerce by the Ways and Means Committee.

Mr. SCOTT. At that time?

Mr. ELLIOTT. The 15th of May, 1911.

Mr. SCOTT. Not between the 15th of May, 1911—when did you start?

Mr. ELLIOTT. On the 31st of May.

Mr. SCOTT. You started north on the 31st of May?

Mr. ELLIOTT. No, no; I was called and the investigation was made. I did not start to Alaska until the 20th of June, 1913.

Mr. STEPHENS of Mississippi. Two years after the matter had been taken up by the committee.

Mr. ELLIOTT. Yes.

Mr. STEPHENS of Mississippi. Had any consultation been had with the Department of Justice?

Mr. ELLIOTT. Oh, no; we had not reached the point where we could do that. We did not reach the point until we were in possession of these skins, and we did not have possession of these skins until the 29th of July, 1913.

Mr. SCOTT. So you simply prepared the case for the Department of Justice without any agreement with the department?

Mr. ELLIOTT. We could not agree with them until we had the facts.

Mr. STEPHENS of Texas. I understand that to be the purpose of all these expenditure committees to ascertain whether there have been any frauds perpetrated on the Government.

Mr. ELLIOTT. That was the idea that I got of the duty of this committee. That was pointed out to me by Mr. Harrison when he took me over to Mr. Rothermel.

Mr. EVANS. Did I understand you to say, Judge Stephens, that this investigation might have involved somebody in some of the departments?

Mr. STEPHENS of Texas. They had some knowledge of it, that the law was being violated and that seals were being killed in violation of the agreement between the Government and the lessees, and if they had guilty knowledge of it they would be just as guilty as the men on the islands, under the doctrine of agent and principal.

Mr. EVANS. But was that used as an argument or reason for not going to the department before making the investigation?

Mr. STEPHENS of Texas. We thought if we would get the evidence of the work as we did get it, then we would go to the department and see what they knew about the matter. And you will find the hearings full of that evidence.

Mr. ELLIOTT. There are thousands of pages of that testimony taken from those men where they are pinned down under oath, and they admit these things.

Mr. STEPHENS of Mississippi. My understanding is that matters of this kind are ordinarily taken before the Committee on Accounts.

Mr. ELLIOTT. That is correct.

Mr. STEPHENS of Mississippi. And you went there?

Mr. ELLIOTT. Yes.

Mr. STEPHENS of Mississippi. Why didn't the Committee on Accounts pass upon this matter?

Mr. ELLIOTT. They claimed that we ought to have gone to the House first and secured an appropriation. They claimed that we were entitled to compensation, but they had no money to pay us with.

Mr. STEPHENS of Texas. They stated the fund was exhausted?

Mr. ELLIOTT. They stated that there was no money appropriated. They are an auditing committee, not an appropriating committee, and of course the House can do as it pleases. They can order our payment if it is brought up on the floor of the House. The committee tried to find some way in which they could get around it. They worked on this Belknap precedent for some time.

Mr. STEPHENS of Mississippi. Did that resolution to pay the Belknap committee come through the Committee on Claims or the Committee on Accounts?

Mr. ELLIOTT. The Belknap committee did not go into the House for any money at all.

Mr. STEPHENS of Mississippi. Was there any question about settlement?

Mr. ELLIOTT. It was put into the Committee on Accounts. The account was rendered just as we rendered ours. The Belknap agents rendered their accounts to the Committee on Accounts and they were paid.

Mr. STEPHENS of Mississippi. So there is that precedent for them to go to the Committee on Accounts rather than to come to this committee?

Mr. ELLIOTT. I think so, but the lawyers thought it was best not to do that.

Mr. STEPHENS of Texas. My object in the matter, if the chairman will permit me, was that I felt the necessity of getting this pay for these gentlemen, for their services, because I was instrumental in part, as a member of the committee, in sending them up there. I agreed to everything and helped ferret this thing out. I was sure that they would make good, as they have, and that the evidence would be worth a great deal to the Government in the final recovery. And I think we have laid before the Department of Justice a splendid case from our investigations.

Mr. EVANS. How did your committee stand on the payment of this claim?

Mr. STEPHENS of Texas. There was a minority report against it, signed by two members, Mr. McGuire and Mr. Patton.

Mr. EVANS. How many men are there on the committee?

Mr. STEPHENS of Texas. Seven.

Mr. STEPHENS of Mississippi. Five signed the majority report?

Mr. STEPHENS of Texas. Yes.

Mr. EVANS. Do you recall what was the objection of the minority members to the payment of the bill?

Mr. ELLIOTT. They said it was not authorized.

Mr. STEPHENS of Texas. I think they claimed that we had no authority for this investigation.



Mr. ELLIOTT. Mr. Mann said on the floor that we had full authority to make the investigation, but that we had no authority to make that expenditure without an order from the House.

Mr. STEPHENS of Texas. I think that is the contention all through. They do not deny the facts, but they deny the authority.

Mr. ELLIOTT. Here is the request to the committee, signed by Mr. Rothermel, Mr. Stephens, Mr. Bruckner, and Mr. Walsh October 7, 1914. Mr. Watkins was absent at the time but he was in full accord with it.

Mr. EVANS. There is no question about the employment of these gentlemen?

Mr. STEPHENS of Texas. None whatever, and that is the reason I feel under moral obligation to see that they get their pay in accordance with the understanding.

Mr. EVANS. The majority of the committee signed the report in good faith.

Mr. ELLIOTT. Yes, sir.

Mr. STEPHENS of Mississippi. Was there any agreement in regard to the compensation of these men?

Mr. STEPHENS of Texas. No; it was to be left for further consideration of the committee.

Mr. ELLIOTT. In the first place, when we started up I never thought about it. The question was to get up there, and I left directions with Mr. Rothermel how to get Secretary Redfield and the Secretary of the Treasury to get permits to land there. And I had to go immediately, that very night, because I knew from long experience in going to those islands that if I did not make the Government revenue cutter at Unimak Pass on the 7th of July we would not get to the islands in time, and the whole work would be lost.

Mr. STEPHENS of Texas. We thought that Mr. Elliott having been an expert and having been employed as an expert in other cases we would be better able to form an idea as to what we should pay him after the work was done. I did not know anything about this kind of work, but we were willing for that matter to be ascertained afterwards.

Mr. STEPHENS of Mississippi. You had been employed by the Government in an expert capacity before?

Mr. ELLIOTT. Yes.

Mr. STEPHENS of Mississippi. What was your compensation?

Mr. ELLIOTT. I was engaged first as an expert, as a collaborator, for the Smithsonian Institution. Then I got in with John Hay, and, of course, he died before I was fully paid. In this case I told these gentlemen I did not like to fix the value of my services; that they could look into the records of similar experts and see what men had been paid, and they did look into the matter here in the District and found that experts had been paid all the way from \$30 to \$100 a day, and I said take it all in all I do not want to appear as though—although I am perhaps as prominent an authority as there is in the world on this subject—I said I did not like to put in my services at the top, so make it an average of \$20 a day—make it modest.

Mr. STEPHENS of Mississippi. What compensation had you been paid by the Government for the work done by you?

Mr. ELLIOTT. I was paid by piecework, as an expert.

Mr. STEPHENS of Mississippi. always?

Mr. ELLIOTT. I went up once as an agent at so much per day.

Mr. STEPHENS of Mississippi. What was it per day?

Mr. ELLIOTT. Twelve dollars per day and my expenses. There is where I gathered this knowledge which constitutes me an expert. It gave me the experience away back there in 1872, 1873, 1874, and 1890. You see you gather your knowledge and you gather your information by this experience, from the years of study I have spent on the whole question. My work has been published all over the world in different languages. You can go into any library in the civilized world and you will find my work on pinnates and seals.

Mr. ROTHERMEL. I wish the committee would permit Mr. Elliott to write out a short sketch of his experience along this line.

Mr. STEPHENS of Mississippi. We would be glad to have anything he may desire to submit, of course.

Mr. ELLIOTT. That is all in the testimony.

Mr. STEPHENS of Mississippi. There is a call of the House now. Shall we recess and come back here at 12.30, or would you gentlemen prefer to come to-morrow morning?

Mr. SCOTT. Our time in the afternoon is always very uncertain.

Mr. STEPHENS of Mississippi. Suppose then we make it 10 o'clock to-morrow morning to conclude this matter. The committee will stand adjourned.

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SUBCOMMITTEE OF THE COMMITTEE ON CLAIMS,  
HOUSE OF REPRESENTATIVES,  
*Wednesday, February 24, 1915.*

The subcommittee met at 10 o'clock a. m., Hon. Hubert D. Stephens (chairman) presiding.

**STATEMENT OF MR. HENRY W. ELLIOTT—Continued.**

Mr. STEPHENS. Mr. Scott, do you wish to examine Mr. Elliott?

Mr. SCOTT. Yes, sir; I want to ask him a number of questions. Mr. Elliott, I would like to see your itemized bill.

Mr. ELLIOTT. The stenographer has it. I gave him the only copy I had at the hearing yesterday, and I presume you can get it from the committee room. I do not think I have it carried out in detail in those papers [indicating]. I have these traveling-expense items; but I have in the other statement that \$437 itemized for tickets, meals, and everything. That is in the official statement. That statement was agreed upon between Mr. Rothermel, Mr. Gallagher, and myself on the evening of April 2, 1914. That amount was fixed.

Mr. ROTHERMEL. I did not understand that statement.

Mr. ELLIOTT. I say that Mr. Gallagher and myself were called on by you on April 2, 1914, to submit our accounts, and after a two hours' discussion we agreed upon these sums of \$6,000 for myself and \$3,500 for Mr. Gallagher.

Mr. ROTHERMEL. If I may be permitted, Mr. Chairman, I would simply say that it was immaterial to me as to whether the amount was too large or too small, because it was to be submitted to the committee to determine the amount.

Mr. ELLIOTT. And you did that in obedience to the order of the committee made that morning; at least, you informed me that that was the order of the committee made in executive session and published in the public records.

Mr. ROTHERMEL. So far as that question was concerned, it would not matter to me whether it was \$1,000 or \$10,000.

Mr. SCOTT. Of this total amount of \$6,182.25, what amount is for services and what amount is for expenses?

Mr. ELLIOTT. What I consider to be for my services is the per diem there for my services as an expert, and my traveling expenses come in there. That I did in obedience to Mr. Abercrombie's request on August 25, following, that we itemize it. It is itemized and is in the official record.

Mr. SCOTT. Then your claim for services is \$6,182?

Mr. ELLIOTT. Yes, sir; for my services as an expert for that number of days.

Mr. SCOTT. And Mr. Gallagher's claim for services is what amount—\$3,000?

Mr. ELLIOTT. For services and living and traveling expenses, \$3,300.

Mr. SCOTT. Is it \$3,318?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. What part of that is for services?

Mr. ELLIOTT. I am partly responsible for that; because after he and Mr. Rothermel had worked over this thing that evening of April 2, 1914, and neither one of them could quite agree on the matter, they referred it to me, and I said, "I will take it up in this way: Mr. Gallagher is an expert court reporter, and he makes from \$25 to \$30 a day; he has been engaged for 83 days with us on this work, and that would be \$2,500 for his services, and, then, for his living and traveling expenses I would give him another \$1,000."

Mr. SCOTT. How many days did you say?

Mr. ELLIOTT. He was actually engaged with us for 83 days.

Mr. SCOTT. Was that on the trip to Alaska?

Mr. ELLIOTT. Yes, sir; and on his return he was engaged in helping to prepare the report you have there.

Mr. SCOTT. How many days were you gone on this Alaska trip?

Mr. ELLIOTT. We started on June 20 and we got back on August 22.

Mr. SCOTT. That was about two months?

Mr. ELLIOTT. Yes, sir. I will say with reference to that work of preparing the report that with Mr. Gallagher's help it was placed in shape and submitted on August 31.

Mr. SCOTT. It was submitted in that form?

Mr. ELLIOTT. No, sir; in manuscript form. Most of the typewriting was done by Mr. Gallagher in his office, and the rest of it was done in longhand by myself.

Mr. SCOTT. His services terminated at what time?

Mr. ELLIOTT. When we finished that report; he had to go to St. Louis for several days in November following as an expert witness. He went there for the purpose of assisting in the separation and identification of the 400 skins which were brought from the islands and which are, to-day, set apart for the use of the Attorney General.

Mr. SCOTT. Was there a hearing held at St. Louis?

Mr. ELLIOTT. It was not a hearing. That was for the identification of those skins that had arrived from the Islands. There were 400 skins, plus certain others, making 2,200 or 2,300 altogether.

Mr. SCOTT. Were those skins identified in Alaska?

Mr. ELLIOTT. Yes, sir; and then, when they were received here at the department, they were sent to St. Louis, where they wanted to sell these skins; then, Mr. Redfield said that he wanted to hold up and separate these 400 skins. Then Mr. Gallagher, with the cooperation of Mr. Rothermel, went down there for that purpose, as he was the only man who had worked with me on the islands and knew every skin.

Mr. SCOTT. How did he identify them?

Mr. ELLIOTT. They were identified on the islands and tagged.

Mr. SCOTT. Then, why was it necessary to send a man to St. Louis to identify them if they were tagged?

Mr. ELLIOTT. Because they wanted to have the identification made perfect for the use of the courts.

Mr. SCOTT. Now, you arrived and began your work in Alaska about July 10?

Mr. ELLIOTT. I got there on the evening of July 8. We anchored off St. Paul Island and went ashore. The next morning, July 9—

Mr. SCOTT (interposing). I think we could get along faster if you would simply answer my questions and then stop. I suggest that because we will never get through with the examination if you continue talking after answering the questions. The purpose of my question was simply to fix the date of your arrival there.

Mr. ELLIOTT. We arrived on July 8; landed July 9.

Mr. SCOTT. I wish you would enumerate specifically and as briefly as you can just what information you discovered in Alaska that was not available here or that had not been discovered before.

Mr. ELLIOTT. In the first place, I discovered in the official agent's journal the "Carlisle rules," published there on June 17, dated May 14, 1896, forbidding the killing of yearling seals. Those rules had been concealed from the committee.

Mr. SCOTT. Well, you have answered the question?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. Then, I want to take that up. Had you before that time made any investigation here in Washington in the Department or Bureau of Fisheries where the order was issued?

Mr. ELLIOTT. Secretary Carlisle issued the order on May 14, 1896.

Mr. SCOTT. He was Secretary of the Treasury?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. Had you made a full investigation here in Washington in the Treasury Department to ascertain whether there had been kept here the original order or any record of its issuance?

Mr. ELLIOTT. The agent of the Bureau of Fisheries was put under examination and denied that there was any such order, and I was there to make the investigation—

Mr. SCOTT (interposing). Then, you had made no investigation in the office of the Secretary of the Treasury?

Mr. ELLIOTT. I could not, because it was denied that there was any such order.

Mr. SCOTT. Do you know now whether the original order is in existence here in Washington or not?

Mr. ELLIOTT. Yes, sir; because we had a certified copy of it from the Secretary of Commerce.

Mr. SCOTT. Then it is in existence?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. And could have been obtained at any time by applying at the right place?

Mr. ELLIOTT. It was asked for and denied.

Mr. SCOTT. It was asked for by whom?

Mr. ELLIOTT. By the chairman of the committee. The chairman of the committee asked him if there were any regulations of that kind, and Dr. Everman, representing the Bureau of Fisheries, denied—

Mr. SCOTT (interposing). But I am now talking about the Secretary of the Treasury, the man who issued the order.

Mr. ELLIOTT. I had no authority to dispute the statement of the bureau officials here.

Mr. SCOTT. I am not concerned about that. I want to know whether or not this information with respect to this order was at hand and available to the Department of Justice. Did they apply for it at the place where that record is kept?

Mr. ELLIOTT. I did not know there was any such record.

Mr. SCOTT. I am not concerned with what you knew, but I am concerned to know what was available to the Department of Justice.

Mr. ELLIOTT. They had nothing.

Mr. ROTHERMEL. May I make a suggestion at this point? We asked the bureau officials to bring all of the regulations before the committee.

Mr. SCOTT. I understand that.

Mr. ROTHERMEL. And this was not in it at all, and they claimed that those were all of the regulations.

Mr. SCOTT. What I want to ascertain is this: It was stated here yesterday that this investigation or trip to Alaska was made for the purpose of procuring evidence for the benefit of the Department of Justice, and I want to know what was obtained there that was not available to the Department of Justice here.

Mr. ELLIOTT. That was obtained there because it was denied to the Department of Justice.

Mr. SCOTT. So that this order, of which you discovered a copy in Alaska, is in fact an original order on file here?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. What other piece of evidence or what other facts did you learn while in Alaska that were not available here in Washington?

Mr. ELLIOTT. Well, we got this physical exhibit of 400 skins.

Mr. SCOTT. Now, what bearing has that exhibit of 400 skins upon the subject of the investigation?

Mr. ELLIOTT. It shows exactly the method by which the lessees loaded the little skins so as to make them weigh up to what the regulations prescribed—that is, to make them weigh as big skins.

Mr. SCOTT. Now, what was the limit that the regulations permitted that year?

Mr. ELLIOTT. Five pounds.

Mr. SCOTT. Do you know what the purpose of that limit was?

Mr. ELLIOTT. It was to prevent them from killing little seals.

Mr. SCOTT. How little?

Mr. ELLIOTT. Yearling seals.

Mr. SCOTT. What is a yearling seal?

Mr. ELLIOTT. A yearling seal is a seal that has returned to the islands after its first winter's migration.

Mr. SCOTT. For how long a time is that seal considered to be a yearling?

Mr. ELLIOTT. Until it returns to the islands the next year after its second winter's migration.

Mr. SCOTT. How old, in fact, would it be at the time you would call it a yearling?

Mr. ELLIOTT. Anywhere from 11 to 16 months.

Mr. SCOTT. And after that it would be called what?

Mr. ELLIOTT. After its return to the islands from its second winter's migration it is called a 2-year-old seal.

Mr. SCOTT. So that there is no specific time within which a seal is a yearling, and it is only an approximation?

Mr. ELLIOTT. No, sir; it is not an approximation. It is a distinct and specific thing, and there is no approximation about it. They are called "yearlings" when they return to the island from their first winter's migration—they are called yearlings then, from start to finish.

Mr. SCOTT. From the time they return from their first winter's migration until——

Mr. ELLIOTT (interposing). Until they leave.

Mr. SCOTT. Until they leave again?

Mr. ELLIOTT. Yes, sir; they are yearlings.

Mr. SCOTT. How large is a yearling?

Mr. ELLIOTT. A yearling seal weighs about 38 pounds, and is about 38 or 39 inches long.

Mr. SCOTT. How long are they on the islands from the time when they return from their first winter's migration until they leave again?

Mr. ELLIOTT. They come in June and July and leave in November.

Mr. SCOTT. Do they grow during that time?

Mr. ELLIOTT. Yes, sir; but they are still yearlings and are recognized as yearlings.

Mr. SCOTT. So that the weight of a skin taken from a yearling seal might depend largely upon the time it was killed, just as it would be in the case of cattle and hogs?

Mr. ELLIOTT. Yes, sir; with this marked difference: These seals are practically all born at one time every year and grow uniformly, while cattle and horses are born in every month of the year. The seals are born only in the middle of the year: nine-tenths of them between the 4th and 20th of July. Therefore it is a thousand times easier to place them as yearlings in the natural order of life beyond any doubt or dispute than if they were horses, cattle, or swine.

Mr. SCOTT. Those 400 skins you have referred to were taken from yearlings?

Mr. ELLIOTT. No, sir; not all from yearlings. It is a physical exhibit of that many skins, showing how they covered up 139 yearling skins. They show that these yearling skins have an excess of blubber attached to them, while the 2 and 3 year old skins are skinned "clean" down free of blubber.



Mr. SCOTT. Is there any other theory upon which young skins are loaded or left with more blubber on them than the older skins?

Mr. ELLIOTT. Certainly there is none. It is much easier to salt them if the blubber is not on the skins, and naturally there ought to be more on the old skins.

Mr. SCOTT. I did not know but what the youth of the animal might require a different method of treating the skin?

Mr. ELLIOTT. Not the slightest.

Mr. SCOTT. As I understand it, your theory is that these 400 skins were below the limit?

Mr. ELLIOTT. No, sir; not all of them.

Mr. SCOTT. Well, how many of them?

Mr. ELLIOTT. I think there were 139 in this 400 which are below the limit. That is set out in detail in our report. If they had been properly skinned, they would have been  $4\frac{1}{2}$ -pound skins and below the limit fixed in the regulations. As it was these little skins weighed up from  $5\frac{1}{2}$  to  $8\frac{1}{2}$  pounds, and that exhibit shows you in a minute just how it was done. We can lay that question before a jury. We can take a 34-inch skin and show that it weighs  $4\frac{1}{2}$  pounds, and we have 18 of them in this catch. Then we can take another skin of exactly the same length or size and show that it weighs  $8\frac{1}{2}$  pounds because this excess of blubber is attached to it. Then the testimony we brought out shows that the weights used as London sales weights were fictitious weights, because they do not weigh them individually in London at all—

Mr. SCOTT (interposing). You did not discover that in Alaska?

Mr. ELLIOTT. No, sir; these London sales records were the ground for laying the charges.

Mr. SCOTT. What other evidence did you discover in Alaska?

Mr. ELLIOTT. Then, we took up the very important and delicate matter of getting the testimony of the natives so that they could be identified as witnesses in the case, if the Attorney General wanted them; and, that is where the great value, the supreme value, of Mr. Gallagher's services came in. His notes will be taken in any court, before any jury, as being absolutely perfect. Now, we examined those natives very quietly without disturbing them, or alarming them in any way, and without asking leading questions. We have a deposition or statement of their evidence.

Mr. SCOTT. Does this report contain the testimony that you took?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. Where is it?

Mr. ELLIOTT. Here it is [indicating]. That is the entire matter—that is, the entire meeting.

Mr. SCOTT. Well, we will take up this matter. I notice here over a page and a half of testimony apparently signed by nine witnesses.

Mr. ELLIOTT. Yes, sir; that is the testimony of the chief ones, or the active, leading men up there.

Mr. SCOTT. Which one of these witnesses responded to these questions?

Mr. ELLIOTT. It is all set out in the testimony. They got together and formulated their answers and the spokesman answered through the interpreter.

Mr. SCOTT. Then, these answers are not in the language of any one of these witnesses?

Mr. ELLIOTT. But they are the interpretations made by their chosen agent to us.

Mr. SCOTT. But they are not the answers of any one of the witnesses.

Mr. ELLIOTT. No, sir; they are the collective answers of all of them.

Mr. SCOTT. Do you mean that the interpreter would talk generally with the whole crowd?

Mr. ELLIOTT. To the whole crowd; and then they would put their heads together and, after agreeing upon it, they would send it in as their collective answer. Sometimes it was 20 minutes before they agreed.

Mr. SCOTT. Now, in this testimony, covering one and three-fourth pages of this record, I wish you would state what particular evidence was developed that you deemed pertinent to this inquiry?

Mr. ELLIOTT. Well, beginning in 1890 they turned away yearling seals; they turned them away, and did not kill them; but in 1896 they began to kill them for the first time. That is brought out here in this evidence.

Mr. SCOTT. I notice this testimony at the top of page 94:

Q. When, after this year, 1890, did you get orders to kill those small seals—to kill all of them that came in the drives?—A. In 1896 we commenced to take the 5-pound skins, to the best of our recollection.

Mr. ELLIOTT. Yes, sir; and the London records show it. They unconsciously and unwittingly confirmed the London records.

Mr. SCOTT. The next question is:

Q. Who directed this work of killing the small seals (molodets) on the killing grounds?—A. We do not remember.

Was that the evidence?

Mr. ELLIOTT. They go on further to say who was in charge. They go on further and say that "J. Stanley Brown was the company's agent" at that time, and, of course, he directed it.

Mr. SCOTT. That is a conclusion from the testimony, and it could be drawn here as well as there.

Mr. ELLIOTT. I could not do it until I saw them and heard them.

Mr. SCOTT. Was this the only testimony you took there?

Mr. ELLIOTT. No, sir; there is lots of it, and it is pregnant with facts—every paragraph of it.

Mr. SCOTT. Now, if you will find the other testimony—

Mr. ELLIOTT (interposing). We asked them if the Government agents objected, and they did not remember any objection; and then they said that when the small seals were ordered killed they got orders to leave some blubber on those skins, and that they still have it at this time.

Mr. SCOTT. I am asking about the other testimony.

Mr. ELLIOTT. Then this question was asked: "Did you drive and kill seals last summer?" and the answer was "Yes." Then this testimony was given:

Q. How large were they?—A. We killed them by ages, as we had killed them before.

Mr. SCOTT. You do not understand my question. I am asking you whether in this document you have other testimony besides this one and three-fourths pages?

Mr. ELLIOTT. This is testimony that is pregnant with facts for the Attorney General.

Mr. SCOTT. Was there any other?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. What I want to find out is how much of this document is devoted to the testimony of witnesses in Alaska?

Mr. ELLIOTT. It is right here—it is identified here.

Mr. SCOTT. Is there any other testimony contained in that document?

Mr. ELLIOTT. No, sir. It is in this volume of sworn testimony.

Mr. SCOTT. Then this page and three-quarters of testimony appearing here is not all of the testimony taken?

Mr. ELLIOTT. It is sufficient to bring those witnesses down here—

Mr. SCOTT (interposing). But there is other testimony?

Mr. ELLIOTT. Yes, sir; but I regard that as the pregnant testimony.

Mr. STEPHENS. It is not a question of what you regard as the most important testimony, but Mr. Scott wants to know about the volume of the testimony.

Mr. ELLIOTT. It is in here [indicating].

Mr. SCOTT. This contains letters, extracts from other hearings, and many things that have no relation to that trip to Alaska.

Mr. STEPHENS. Is that [indicating] the same report as this [indicating]?

Mr. ELLIOTT. No, sir; I will go further and show you some of it.

Mr. SCOTT. I will say to Mr. Gallagher that these are the only two points in this report where I have been able to find any questions propounded and answers given. Are there any others?

Mr. GALLAGHER. There were two hearings of the natives.

Mr. ELLIOTT. If he wants the other testimony we have here, I will show it to him.

Mr. SCOTT. This testimony, beginning at the bottom of page 93 and continuing to page 95, and beginning again at page 97 and continuing to page 100—these pages contain the only testimony that was taken in Alaska by you and Mr. Gallagher and brought back?

Mr. ELLIOTT. That is the testimony of the witnesses. That is all we wanted. It was sufficient, and it covers the ground completely.

Mr. SCOTT. Aside from taking the testimony of these witnesses identified on these pages and procuring these skins, what other facts did you learn in Alaska on that trip, not available here?

Mr. ELLIOTT. The fact that in 1891 the President's order restricting the lessees to the killing of 7,500 seals had been violated on the islands, and we brought down from the records there the whole correspondence entered in the journals, and I have had them certified in the Treasury Department.

Mr. SCOTT. What records of that character did you bring back?

Mr. ELLIOTT. The single season's work of 1891 uncovered frauds amounting to \$791,000.

Mr. SCOTT. During all the years?

Mr. ELLIOTT. In 1891; for just that one year.

Mr. SCOTT. Mr. Elliott, you are not a lawyer?

Mr. ELLIOTT. But I have been with lawyers, the best in the House.

Mr. SCOTT. But you are not a lawyer?

Mr. ELLIOTT. No, sir. I am an artist and naturalist, a real estate man and a fruit grower. There [exhibiting] is Exhibit H; that will

enable the Government to recover \$791,000. There [exhibiting] are all the documents, which have all been certified to by the Secretary of the Treasury. That record of fraud in a single season's work will enable the Attorney General to recover \$791,000.

Mr. SCOTT. I notice that this begins as follows:

On Saturday, August 5, 1911, Mr. Bowers read into the record of this committee, for the purpose of discrediting me—

Mr. ELLIOTT (interposing). That leads up to what I have here. I showed before the committee what they were doing and what was done in the islands.

Mr. SCOTT. Did you find what was done in the islands?

Mr. ELLIOTT. That is all set out here in this report in detail, showing that on the 27th of May, 1891, they were ordered specifically to restrict all killing on the islands to 7,500 seals, yet I found in the records that they had killed nearly 14,000 in spite of the President's order.

Mr. STEPHENS. Fourteen thousand?

Mr. ELLIOTT. Yes, sir; 14,000.

Mr. SCOTT. How did you ascertain that?

Mr. ELLIOTT. From the daily records of the killings in the journals, and then I traced it back in the Treasury reports.

Mr. SCOTT. Seven thousand five hundred was the limit that year?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. The 7,500 related simply to the two islands?

Mr. ELLIOTT. The two islands. The entire killing allowed by the President for that entire year.

Mr. SCOTT. Were there more islands?

Mr. ELLIOTT. No, sir.

Mr. SCOTT. All the seal herds were on those two islands?

Mr. ELLIOTT. Yes, sir; nowhere else. The islands of St. Paul and St. George.

Mr. SCOTT. Did it occur to you that it might be pretty difficult to go back nearly 25 years and make a civil case against anyone to recover?

Mr. ELLIOTT. Mr. McGillicuddy, one of the best lawyers in the House, says that it is a perfect case, and that there is no difficulty at all. I will leave that to the lawyers to settle.

Mr. SCOTT. That, of course, is immaterial here.

Mr. ELLIOTT. I have acted entirely on their suggestion.

Mr. SCOTT. Do you know of any specific legislation of Congress relative to civil liability for taking the seals?

Mr. ELLIOTT. Yes, sir; that is all in the statutes, and also itemized. I have it somewhere here.

Mr. SCOTT. Can you turn to it?

Mr. ELLIOTT. Yes, sir. It is in the hands of the Attorney General now. I have it all verified. Here [exhibiting] it is. I have a more elaborate report for the Attorney General.

Mr. SCOTT (after examining statement). These are simply citations?

Mr. ELLIOTT. They cover the statutes, and cover the very case that we are talking about.

Mr. SCOTT. But that does not do any good here. I did not know but what you had the provision of the statute before you there.

Mr. ELLIOTT. No, sir.

Mr. STEPHENS. It does not set out the text of the statute?

Mr. ELLIOTT. No, sir. Every lawyer has that at his command.

Mr. SCOTT. Mr. Elliott, what other evidence or fact did you discover in Alaska that was not available here in the records or otherwise?

Mr. ELLIOTT. In regard to fraud?

Mr. SCOTT. In regard to this subject which you went to investigate.

Mr. ELLIOTT. Those are the three salient features—the most important.

Mr. SCOTT. Just enumerate them.

Mr. ELLIOTT. The concealment of the killing records for 12 years, in violation of the Carlisle rules (the existence of which was denied), the physical exhibit of the 400 skins, and the testimony of these natives.

Mr. SCOTT. Did you perform any other service in Alaska?

Mr. ELLIOTT. Yes, sir; we took a census of the herd.

Mr. SCOTT. You took a census of the herd?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. The report shows that?

Mr. ELLIOTT. Yes, sir; we were very careful about that.

Mr. SCOTT. A census of the seal herd taken by an estimate?

Mr. ELLIOTT. Yes, sir; necessarily so.

Mr. SCOTT. You found a much larger herd than you expected to find?

Mr. ELLIOTT. No; I did not know what I would find. I had said for years that the Bureau of Fisheries figures were evidently faulty. That is all in the sworn testimony.

Mr. SCOTT. What directions had you from the committee at the time you left here?

Mr. ELLIOTT. My letter of instructions is here. No; I left that copy with the reporter.

Mr. SCOTT. The resolution was passed by the committee on June 20?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. And provided for your appointment as a qualified expert to gather such information as the chairman of the committee shall require?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. After the passage of this resolution, what did the chairman of the committee do in the way of specifying the information that he desired you to procure in Alaska?

Mr. ELLIOTT. He gave me a letter of instructions.

Mr. SCOTT. Have you that letter?

Mr. ELLIOTT. No; the reporter took the copy of it yesterday.

Mr. SCOTT. Is that incorporated in this report?

Mr. ELLIOTT. No, sir.

Mr. SCOTT. I would like to see it.

Mr. ELLIOTT. Mr. Fitzgerald, the chairman of the Committee on Appropriations, has the original letter.

Mr. SCOTT. We should like to have the original letter or a copy.

Mr. ELLIOTT. Mr. Fitzgerald has the original letter, and, also, the letters from Mr. Redfield, Secretary of Commerce, and Mr. McAdoo, Secretary of the Treasury, are in his hands.

Mr. SCOTT. What letter do you refer to from Mr. McAdoo, the Secretary of the Treasury?

Mr. ELLIOTT. The letter in which he put the Revenue-Cutter Service under orders to take us where we wanted to go and to come and take us away. Mr. Redfield's letter authorized us to land on the islands, and to make this investigation, and asking the Government representatives to extend every facility and courtesy to us. The original letters are in the hands of Mr. Fitzgerald, and the copies are in the hands of your reporter. I gave them to him yesterday in order to save time.

Mr. SCOTT. How many members are there on the Committee on Expenditures in the Department of Commerce?

Mr. ELLIOTT. Seven.

Mr. SCOTT. There seems to have been only three present when the resolution was passed?

Mr. ELLIOTT. There were four present.

Mr. SCOTT. Mr. Stephens and Mr. Watkins voted aye, and Mr. Patton voted no; only three?

Mr. ELLIOTT. Yes, sir; but the chairman, Mr. Rothermel, was there. It did not need his vote or he would have cast it. There was a quorum of the committee present.

Mr. SCOTT. After you returned from Alaska in August, and submitted this report, what services did you perform that make up for the other 280 days?

Mr. ELLIOTT. As soon as the report was submitted, I said to the chairman of the committee that that made it necessary for me to prepare a statement going into every detail showing the loss which the Government had sustained by this fraud.

Mr. SCOTT. Where is that statement?

Mr. ELLIOTT. That is a part of the hearings of January 17.

Mr. SCOTT. Was there any authority obtained from the House or from the committee to perform those services?

Mr. ELLIOTT. Certainly; the committee authorized this work.

Mr. SCOTT. In what way?

Mr. ELLIOTT. By that resolution.

Mr. SCOTT. This resolution simply authorized you to go to Alaska and to secure such information as the chairman of the committee might direct you to get.

Mr. ELLIOTT. Here it is:

Mr. STEPHENS. On December 15, 1913, the said Henry W. Elliott filed with the chairman of this committee a supplementary and complete report and exhibits of the said special agents of the committee upon the conditions of the fur-seal herd of Alaska and the conduct of the public business relating thereto, as ordered by the committee.

That is the statement.

Mr. SCOTT. But the fact is the committee did not order anything except in this one resolution?

Mr. ELLIOTT. Not at all, as I understand it.

Mr. SCOTT. Do you know of more than one resolution being passed by the committee?

Mr. ELLIOTT. It was not necessary.

Mr. SCOTT. But I asked you if you there was more than one resolution passed by the committee?

Mr. ELLIOTT. There was not anything more. Why should there be?

Mr. SCOTT. I am not under interrogation here.

Mr. ELLIOTT. No; but I should like to know.

Mr. SCOTT. I am trying to ascertain whether the whole service performed here, over 200 days, after you had submitted your report, is to fall under the authority of the original resolution.

Mr. ELLIOTT. It must have been so, because the committee authorized it; the committee must afterwards have ordered it.

Mr. SCOTT. The supplemental work?

Mr. ELLIOTT. Yes.

Mr. SCOTT. That is simply the remark of one member of the committee. I want to find out whether the committee, as a committee, took any action other than that contained in the original resolution?

Mr. ELLIOTT. Why, certainly. Here it is:

Mr. STEPHENS—

Mr. SCOTT (interposing). That is simply a remark by Mr. Stephens.

Mr. ELLIOTT. It is a part of the official record of the committee's proceedings.

Mr. SCOTT. I am trying to ascertain whether there was any other resolution?

Mr. ELLIOTT. That is exactly what I am talking about.

Mr. STEPHENS. What page is that?

Mr. ELLIOTT. Page 162. Mr. Stephens made the motion on December 15, 1913, that I file with the chairman of the committee "a supplementary and complete report." That was done in obedience to the resolution.

Mr. SCOTT. What resolution?

Mr. ELLIOTT. The resolution you just read.

Mr. SCOTT. The resolution of June 20?

Mr. ELLIOTT. Yes, sir; is not that perfectly plain?

Mr. SCOTT. What I am trying to ascertain is whether there was any other resolution ever passed?

Mr. ELLIOTT. It did not need any.

Mr. SCOTT. But you do not understand that there was any?

Mr. ELLIOTT. Certainly not. Mr. Stephens moved that this whole thing be put in the record of the committee as the act and order of the committee. The motion was made by Mr. Watkins and was unanimously adopted by the full committee. I do not see that there was anything more to be done.

Mr. SCOTT. What time was devoted to this matter by Mr. Gallagher?

Mr. ELLIOTT. I do not like to speak for him. He is here.

Mr. SCOTT. What time did he devote to it?

Mr. ELLIOTT. He started on the 21st of June as my assistant. I did not meet him until we took sail on the 1st of July from Seattle. I went ahead to make arrangements. We had only a day or two. I consider that he was under the service of the committee from the day he left here, or that he entered the service of the committee that day and ended the service about 83 days later.

Mr. SCOTT. That would be after his return?

Mr. ELLIOTT. Yes, sir. The work on this report—the typewriting—was all done down in his office. I dictated to him on the islands.

Mr. SCOTT. There are very few notes here.

Mr. ELLIOTT. He wrote that right from my lips as we walked over the rookeries.

Mr. SCOTT. The bulk of this is made up of excerpts from other documents?

Mr. ELLIOTT. Yes, sir; and from my original work. You have to have excerpts.

Mr. SCOTT. After Mr. Gallagher returned here his services were doing the clerical work—aiding you in formulating this report?

Mr. ELLIOTT. Yes, sir; expert clerical work.

Mr. SCOTT. The subsequent work of 200 days, or such a matter, that you put in he did not colabor with you?

Mr. ELLIOTT. No, sir; no man could have done that—without any reflection on anyone.

Mr. SCOTT. So Mr. Gallagher's work, the result of it, is all represented in this report that was submitted?

Mr. ELLIOTT. He appeared as an expert witness before the committee once or twice and gave sworn testimony.

Mr. SCOTT. Upon what matter?

Mr. ELLIOTT. In regard to the skins.

Mr. SCOTT. What do you mean by an expert witness?

Mr. ELLIOTT. I call him an expert witness because he has been up there.

Mr. SCOTT. Would that make him an expert upon the seal question?

Mr. ELLIOTT. No; but an expert upon what he testified to, the natives' testimony.

Mr. SCOTT. He is an expert because he took down the testimony in shorthand and reproduced it in typewriting?

Mr. ELLIOTT. Yes, sir; and also an expert able to identify those skins in the courts, because he handled them with me. In that way he becomes an expert witness.

Mr. SCOTT. He is an expert in so far as he may be required to transcribe or to read the notes?

Mr. ELLIOTT. Yes, sir; and give evidence bearing upon those vital points.

Mr. SCOTT. He went with you as a stenographer?

Mr. ELLIOTT. Yes, sir; as an expert stenographer, not a common stenographer.

Mr. SCOTT. As a capable and qualified stenographer?

Mr. ELLIOTT. As one of the best; yes, sir.

Mr. SCOTT. That was the limit, however, of his performing duty?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. He was not, in fact, an agent of the committee, as you were?

Mr. ELLIOTT. Well, I do not know. I like to feel that he was my equal in the premises, because what he saw and witnessed is vital to what I saw and witnessed.

Mr. SCOTT. Is that the reason you changed his status in the preparation of this report from the original resolution?

Mr. ELLIOTT. I do not regard that I changed his status. He was ordered to colabor with me. He is a collaborator.

Mr. SCOTT. The resolution calls for a qualified stenographer to record the details of the information?

Mr. ELLIOTT. Yes, sir.



Mr. SCOTT. So far as you know, Mr. Gallagher's services were confined to the taking down of such dictation as you gave him on the islands, all of which is embodied in this report?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. And the record of the testimony of those witnesses that you have identified?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. And witnessing the tagging of the skins?

Mr. ELLIOTT. Yes, sir; not only witnessing, but to make the notes.

Mr. SCOTT. To make a record of the tagging.

Mr. ELLIOTT. Yes, sir; in the salt house at St. Pauls village in cooperation with the officials of the bureau.

Mr. SCOTT. When this testimony was taken you say that there were nine natives there and the interpreter, and this interpreter would finally, after discussing with all of them back and forth, crystallize the composite answer of the nine and then would recite it to you?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. In taking testimony in that form would there be any difficulty in you writing down in longhand the answer direct from the interpreter?

Mr. ELLIOTT. I should say so; I would not attempt to do such a thing.

Mr. SCOTT. The answers are all very short?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. And all the testimony covers less than two pages?

Mr. ELLIOTT. Yes, sir; but we did not know how long the answers would be, and no man could tell. I wanted the exact language of those people.

Mr. SCOTT. As a matter of fact, as you did take that testimony, there would have been no difficulty in writing these answers in longhand and doing it in less than 30 minutes?

Mr. ELLIOTT. I do not know any man who is qualified to appear as an authority for the answer of another man, who can not take it down exactly as it is spoken, and at the moment it is spoken.

Mr. SCOTT. When the interpreter finally crystallized in his own language the composite answer of the nine witnesses, the short answer—of course you would have no difficulty in writing out your own questions, and the answers, as short as these answers are, "Yes," "No," and "We do not remember," none of them probably more than a line or so—you would not have any difficulty in writing the answers given in that way?

Mr. ELLIOTT. But you must bear in mind that we could not anticipate that their answers would be short; and we were prepared to take anything which came.

Mr. SCOTT. You were not anticipating taking the testimony in the language of the natives?

Mr. ELLIOTT. We practically got it in their language. That is, their language. That is an exact transcript of their language.

Mr. SCOTT. Their native tongue?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. This is a final interpretation by the interpreter of the meaning of the various statements made to him by the nine witnesses?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. Brought under one answer?

Mr. ELLIOTT. Yes, sir. We did not know what range it might take, and we wanted to be ready to get it. We did not solicit, we did not qualify, or lead them on; and, we stopped when we ought to have stopped. With these questions, now the Attorney General can go into any detail he wants.

Mr. SCOTT. You arrived in the islands on the 8th of July?

Mr. ELLIOTT. We came to anchor there then right off the wharf; yes, sir; and went to work the next morning.

Mr. SCOTT. How long were you on the islands?

Mr. ELLIOTT. Until the 30th of July.

Mr. SCOTT. You were busy about 20 days?

Mr. ELLIOTT. Yes, sir; about 22 days.

Mr. SCOTT. I notice that your actual work began on the 10th?

Mr. ELLIOTT. Yes, sir; but we were pretty busy all day on the 9th, preceding.

Mr. SCOTT. Except in this particular instance, the taking of the testimony and your subsequent dictations as you proceeded, the stenographer was not busy with you?

Mr. ELLIOTT. Yes, sir; he had to accompany me. We were five days going through the journals, a great stack of journals as high as that [indicating]; we had to go through all of them. I dictated to him wherever we were.

Here [exhibiting] are the instructions, at least a copy of the letter of instructions. The original is in Mr. Fitzgerald's hands.

Mr. SCOTT. This is not a copy of the letter of instructions?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. This is apparently a copy of the record.

Mr. ELLIOTT. That is the way it starts. Here [indicating] is the letter of instructions.

Mr. SCOTT. I see. Who wrote this letter?

Mr. ELLIOTT. I do not know; I was not here. It was sent to me by mail. I left before it was written. Mr. Rothermel would know. It was typewritten, and I received it at Seattle June 26. I had no time to lose and had to go up there and get in time the clear sailing directions, so that we would not lose the Onimak Pass transfer.

Mr. SCOTT. Your instructions were to ascertain, "first, the condition and number of the fur-seal herd as it exists at the height of the season on those islands; second, the conduct of the work of killing fur seals as annually pursued since 1890"?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. And the ages and sizes of the seals taken by the lessees and agents since that date; and, third, to procure for the use of the committee the sworn statements of those men who have done the work of killing. That was some of your directions?

Mr. ELLIOTT. That is some of it; yes, sir.

Mr. SCOTT. And this report contains all of that information?

Mr. ELLIOTT. Yes, sir; with reference to the work on the islands.

Mr. SCOTT. Now, for the work you did in about 20 days you required about 200 days' time in which to submit this report and to prepare this supplementary work. Was that necessary in order to understand what you had stated in this report with respect to these three points?

Mr. ELLIOTT. Certainly; absolutely; it reached out and branched back 40 years, and that was necessary in order to make it perfectly clear, leaving no stone unturned and no possible chance to evade or doubt or hide.

Mr. SCOTT. When was the first mention made of this trip to you, and who suggested it?

Mr. ELLIOTT. Mr. Rothermel mentioned it to me on the morning of June 20 for the first time.

Mr. SCOTT. Of 1914?

Mr. ELLIOTT. June 20, 1913.

Mr. SCOTT. Congress was in session at that time, was it not?

Mr. ELLIOTT. Yes, sir; but there was no quorum present, and under a "gentlemen's agreement" they were adjourning from day to day, and there was to be no quorum until the 14th of July. I told Mr. Rothermel that that would be too late, and that if it was not done before then he had as well stop the whole business. I said that if we did not get the testimony of those men up there they would disappear by the 1st of August, and it would be too late.

Mr. SCOTT. Why did you think that they would disappear?

Mr. ELLIOTT. Because I knew they would be removed, and a new set of men would be sent up there, and then we might not get all of these past records.

Mr. SCOTT. Who would remove these men?

Mr. ELLIOTT. They were removed. They were removed by act of Congress, or they were removed by the Secretary of Commerce.

Mr. SCOTT. But the records are still extant?

Mr. ELLIOTT. I know; but, if you have a new set of men up there killing seals next year, or have it in charge of other persons, the work would be done right, perhaps. But having the old men up there, not knowing that I was coming, it would be done as they had been doing it, and I would get a perfect link connecting them with the past.

Mr. SCOTT. That evidence, you say, rests in the 400 skins?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. And that you regard as the really important part of the work?

Mr. ELLIOTT. Yes, sir; and getting the testimony of the natives. I could have led them beyond what they said here, perhaps, but that would have been wrong. I regard the lining up of these natives there, and getting their testimony, getting possession of this evidence of fraud, and the uncovering of the killing regulations or orders which had been secreted from this committee, as the three vital objects attained, and successfully attained, by going as we did. There would have been no use in going up there a year later; there would have been no use in going after "the height of the season," and there would have been no use in waiting until the 14th of July, when there would be a quorum in the House, because it was absolutely necessary that we should be up there between the 10th and 20th of July.

Mr. SCOTT. However, after you returned, was there any exigency or emergency that required this extra work to be done immediately and before any authority from Congress could be procured?

Mr. ELLIOTT. There had been no suggestion that it was being done without authority. The committee did not mention that to me.

Mr. SCOTT. You knew, of course, that your first employment was without authority of law?

Mr. ELLIOTT. No, sir; and I still believe it was with full authority.

Mr. SCOTT. But you knew that the House had taken no action on it?

Mr. ELLIOTT. Yes, sir; but that does not signify anything. That has been done before. There are many things that are done without the action of the House that have been approved afterwards.

Mr. SCOTT. But after you came back and submitted your report, at the end of a little more than 60 days, there was a subsequent employment for more than 200 days. Now, that was not occasioned by any emergency, was it?

Mr. ELLIOTT. Yes, sir; it was the natural sequence of this beginning. After we closed that up it was necessary for us to get ready in order to call these men if they would come. All of them were particeps criminis to these things, and we had to prepare indictments of them, and statements of the evidence which they would have to face when they came. That was done in this statement of mine, but all of them were afraid to come here and meet it, except two.

Mr. SCOTT. Still, the Department of Justice had made no order in the premises?

Mr. ELLIOTT. No, sir.

Mr. SCOTT. And, in fact, they had not been consulted?

Mr. ELLIOTT. Why should they be? We had to get the facts before them first.

Mr. SCOTT. Don't you understand that it is usual before preparing such a case in detail to at least consult the Government?

Mr. ELLIOTT. Do you suppose if we should go to the Attorney General without any facts, that he would pay any attention to us? You try it.

Mr. SCOTT. I presume you would have to have some facts, but don't you think that the report you submitted to the committee early in August contained sufficient facts to at least call the matter to the attention of the Attorney General?

Mr. ELLIOTT. No, sir. He would want these men connected up with the fraud and would want to know what they said about it.

Mr. SCOTT. All of that could have been done after the report had been brought to the attention of the House, and then authority could have been obtained.

Mr. ELLIOTT. They did not need any authority. I still do not believe that they needed authority. Mr. Mann said on the floor of the House that they had perfect authority to make this investigation.

Mr. SCOTT. But \$10,000 is a considerable sum.

Mr. ELLIOTT. \$10,000,000 is blown away in a breath and you do not know anything about it.

Mr. SCOTT. I know all about this, though. Who gave you direct orders to go on and do this supplemental work after you submitted this report?

Mr. ELLIOTT. The chairman.

Mr. SCOTT. Mr. Rothermel?

Mr. ELLIOTT. Yes, sir; and I will say further that I was in consultation with Mr. Watkins, Mr. Stephens, Mr. Bruckner, and Mr. Walsh almost every day.

Mr. SCOTT. Did you consult them with reference to this supplemental work?

Mr. ELLIOTT. Yes; sir.

Mr. SCOTT. And each of them told you to go on and do the work?

Mr. ELLIOTT. Yes, sir; they were delighted with it. They were pleased with it, and I consulted them and showed them the progress that was being made with it.

Mr. SCOTT. Was there any discussion as to what the cost of it would be?

Mr. ELLIOTT. No, sir; I do not think they ever raised that question. I can not remember it. I do not remember anything of that, except once when Mr. Watkins said, "I hope you will be well paid for this," and "we can not pay you enough."

Mr. SCOTT. Returning again to Mr. Gallagher's bill here, so far as you know, the time he devoted to this was slightly over two months?

Mr. ELLIOTT. It was about 84 or 85 days. He can tell you the exact number of days.

Mr. SCOTT. That would be approximately at the rate of \$1,000 per month.

Mr. ELLIOTT. This is the way I figured that: Mr. Gallagher was first consulted in the matter on the evening of April 2, 1914, in the committee room, and that was the first time he brought up the question of compensation. It had been taken up in the committee in the morning, and the committee in executive session had ordered the chairman to arrange with us for filing our accounts and expenses. They made an agreement in that executive session that a certain sum should be paid the secretary of Mr. Rothermel—\$1,200, I think—

Mr. SCOTT (interposing). What was that for?

Mr. ELLIOTT. For extra services.

Mr. SCOTT. In connection with this matter?

Mr. ELLIOTT. Yes, sir. That is all over and past. That went through the House.

Mr. SCOTT. I want to be clear about that. Was the sum allowed Miss Kirby in the House for work done in connection with the formulation of this report?

Mr. ELLIOTT. No, sir; not that I know of. That was for services in the committee. There is no reference to her services in connection with these reports, because she had no hand in it. She typewrote the committee's report. She was of no use so far as I was concerned, and that is all she did.

Mr. SCOTT. Now, does this bill cover the services of any other person?

Mr. ELLIOTT. No, sir. As I said, the committee asked the chairman in the morning of April 2, 1914, to arrange with Mr. Gallagher and myself as to our compensation, inasmuch as he had no bills from us in his hands and as no account had been rendered to him.

Mr. SCOTT. Is it the understanding that if this bill is allowed you are to pay for the services of any other person?

Mr. ELLIOTT. No, sir; not at all. That was all thrashed out in the Committee on Accounts December 5 last. That was sworn testimony and I wish you would get it.

Mr. SCOTT. That was upon what subject?

Mr. ELLIOTT. On this very subject you are inquiring about, whether I made an agreement with anybody to pay them anything.

Mr. SCOTT. Is there any understanding that one Mr. Cole is to receive any part of this money?

Mr. ELLIOTT. Not from me.

Mr. SCOTT. Are you to pay Mr. Cole for any services in connection with the committee work?

Mr. ELLIOTT. Not a cent for this work; not a cent.

Mr. SCOTT. For any other work?

Mr. ELLIOTT. I told him that after this thing was over and the business was finished I would reimburse him handsomely for any personal service he had done for me in the way of writing letters, etc.—not in connection with the committee or this work—but personal letters written by him, just as you would call in a stenographer from the outside and have him to write your letters.

Mr. SCOTT. But was not there some conversation between you and Mr. Cole with reference to his being paid by you a considerable sum of money—many hundreds of dollars—for work done for Mr. Rothermel?

Mr. ELLIOTT. Not a word.

Mr. SCOTT. You and he never discussed that?

Mr. ELLIOTT. No, sir; we never did. He never asked me a question about it, and I volunteered that statement to him. I knew that he was hard up.

Mr. SCOTT. And you never discussed that subject with Mr. Rothermel?

Mr. ELLIOTT. No, sir; naturally I would not.

Mr. SCOTT. So that Mr. Cole's work had nothing to do with any part of your work?

Mr. ELLIOTT. No, sir; not with any part of it.

Mr. SCOTT. At any stage of it?

Mr. ELLIOTT. No, sir. That was finished on the 2d of April, 1914, and he could not have had anything to do with it, because he did not come to Mr. Rothermel until May. I never saw him in the field, nor did I talk to him about it. It was closed on the 2d of April, 1914, and I was simply waiting for the minority report. It had not appeared, and when it did appear it was nothing but mendacity, abuse, and vituperation.

Mr. SCOTT. Who made the report?

Mr. ELLIOTT. Mr. McGuire and Mr. Patton.

Mr. SCOTT. I never looked through this. Is it in here?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. I can not find it in any of these documents.

Mr. ELLIOTT. Here it is.

Mr. SCOTT. Have you the minority report there?

Mr. ELLIOTT. No, sir; it was not submitted until July 28; I answered it here. It is itemized here. I faced these gentlemen for three years and they never made any of those statements to my face, and they will never go under oath and make them to my face again, either.

Mr. SCOTT. I will not bother about that now. I have not read the minority report. Has this matter ever been laid before the Department of Justice at all, or do you know?

Mr. STEPHENS. Not that I know of.

Mr. ELLIOTT. Yes, sir; it was.

Mr. SCOTT. I mean the matter of this claim?

Mr. ROTHERMEL. Do you mean this claim of Mr. Elliott and Mr. Gallagher?

Mr. SCOTT. Yes.

Mr. ROTHERMEL. I spoke to some of the assistants, and they said that they had nothing at all to do with it, and that it was for Congress to fix it.

Mr. SCOTT. You see it is quite customary with the Committee on Claims, when a claim is made on account of any matter connected with any department, to get the recommendation of that department, and it occurred to me that it was very pertinent that we should know whether the Department of Justice would take the responsibility of recognizing this as necessary work to be done. It might be a very important thing, but that is for the Department of Justice to say. It is for the Department of Justice to say whether this information that was obtained is necessary, whether it can be used by the department, and whether it is valuable.

Mr. STEPHENS. Mr. Elliott, how many reports did you make to the committee with reference to your work in Alaska?

Mr. ELLIOTT. All of them are embodied there.

Mr. STEPHENS. How many different reports did you make?

Mr. ELLIOTT. There would be three.

Mr. STEPHENS. Do you regard this [indicating] as a part of your report?

Mr. ELLIOTT. That is my report.

Mr. STEPHENS. This document containing 848 pages?

Mr. ELLIOTT. Yes, sir. That is the testimony of the witnesses, and we had to do that work.

Mr. STEPHENS. You collected a lot of letters, newspaper clippings, statements of witnesses, etc., and incorporated them here?

Mr. ELLIOTT. There are no newspaper clippings there.

Mr. STEPHENS. I think I remember seeing them. There is a clipping here from the Washington Star.

Mr. ELLIOTT. I only bring that in incidentally.

Mr. STEPHENS. How long did it take you to prepare this report?

Mr. ELLIOTT. I was occupied with it incessantly from the time I started until the report closed on the 2d of April, 1914.

Mr. STEPHENS. Then you made a preliminary report before that.

Mr. ELLIOTT. That is the one you have been going over.

Mr. SCOTT. The real report was made 60 days after your return.

Mr. STEPHENS. When was this first report made?

Mr. ELLIOTT. That was filed with the chairman on August 31.

Mr. STEPHENS. Within a very few days after your return from Alaska?

Mr. ELLIOTT. Yes, sir. You see we lost no time in getting these things into shape. We did it as quickly as possible.

Mr. STEPHENS. Did the committee call upon you to make a supplementary report?

Mr. ELLIOTT. Yes, sir; the chairman of the committee said that it was necessary that we should go into further detail covering these matters, so that when these men appeared before the committee we could get their answers and the facts. There were serious charges made there.

Mr. ROTHERMEL. I suggested that the facts ought to be arranged so that they could be more readily understood. I did that because this matter has been in a tangle for years and years, and that is the

reason I suggested that the matters should be analyzed and simplified.

Mr. STEPHENS. At the time you filed your first report, on the 31st of August, all of these other facts were before the committee, were they not?

Mr. ELLIOTT. No, sir.

Mr. STEPHENS. You had hearings after that?

Mr. ELLIOTT. Yes, sir; that covers hearings. There was quite a series of hearings.

Mr. STEPHENS. After the filing of that report?

Mr. ELLIOTT. Yes, sir; beginning October 13 and ending on March 19. That became necessary because the work on the islands opened up fresh channels of information.

Mr. STEPHENS. We had Mr. Elliott before us yesterday, and he went over this matter. Mr. McGuire, do you want to ask some questions or make a statement?

Mr. MCGUIRE. I do not care to ask any questions, but I desire to make a statement.

Mr. SCOTT. I want to ask Mr. Elliott a few more questions. Now, the subsequent work that you did, after the filing of your first report, is embodied in these two volumes?

Mr. ELLIOTT. No, sir. There is a syllabus there. While waiting for the minority report I made a syllabus of this testimony taken during the last hearings.

Mr. SCOTT. Then, your subsequent work is embodied in this volume of 849 pages entitled "Hearings before the Committee on Expenditures in the Department of Commerce"?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. Is that the only volume of hearings that was published in connection with that investigation?

Mr. ELLIOTT. No, sir; the past Congress had another volume.

Mr. SCOTT. I refer to this particular investigation.

Mr. ELLIOTT. Everything is there. That is the syllabus which I prepared after the hearings were closed.

Mr. SCOTT. This syllabus, so-called, is entitled "A Report." This contains 260 pages and is based upon the volumes entitled "Hearings," containing 849 pages?

Mr. ELLIOTT. These hearings containing 1,100 pages cover the whole ground.

Mr. SCOTT. This is, in fact, an elaborate brief or argument?

Mr. ELLIOTT. Yes, sir; prepared for the use of the Attorney General.

Mr. SCOTT. This document [indicating] was prepared for the use of the Attorney General?

Mr. ELLIOTT. Yes, sir; it was not generally distributed.

Mr. SCOTT. It was published as a report of the committee?

Mr. ELLIOTT. Yes and no, sir; it was published in the name of the committee, but not as a report.

Mr. SCOTT. The Attorney General had not been consulted in the matter at the time this was formulated?

Mr. ELLIOTT. No, sir; he could not have been.

Mr. SCOTT. It was submitted to the House as the report of Mr. Rothermel and his committee?

Mr. ELLIOTT. Yes, sir.



Mr. SCOTT. And this very large volume of 849 pages was submitted by Mr. Rothermel as the hearings of his committee?

Mr. ELLIOTT. The sworn testimony. The other is not sworn to.

Mr. SCOTT. And the compilation and preparation of these two volumes represent the services for which your bill is filed?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. With the exception of the sixty or more days' service that you devoted to obtaining the testimony and preparing the original report filed in August?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. Will you as clearly and definitely as you can state the length of time, after the date on which you submitted this first report, that you devoted to this task, up to the time of the submission of that report? Can you state the number of days?

Mr. ELLIOTT. Yes, sir; it is from the 31st of August until the 2d of April, 1914. I devoted night and day to it.

Mr. SCOTT. From the 31st of August, 1913, until the 2d of April, 1914?

Mr. ELLIOTT. Yes, sir.

Mr. SCOTT. You devoted all of that time to the preparation and compilation of these two volumes entitled "Hearings of the Committee" and "Report of the Committee"?

Mr. ELLIOTT. I could hardly be credited with "compiling" the sworn testimony of these men who appeared before the committee. I segregated it. I appeared also as a witness, and I brought that testimony in.

Mr. SCOTT. You brought it in with that which you compiled?

Mr. ELLIOTT. Yes, sir; this is a résumé of it. I did not put any charge in for that.

Mr. SCOTT. Upon what date did you submit this first report?

Mr. ELLIOTT. On the 31st of August, 1913.

Mr. SCOTT. Were you busy all of the time from June 20 to August 31 upon that part of the work?

Mr. ELLIOTT. Certainly I was, every moment.

Mr. SCOTT. Was Mr. Gallagher busy with you all of that time?

Mr. ELLIOTT. Yes, sir; so far as I knew, he was.

Mr. SCOTT. After the filing of that report, do you know of any services performed by Mr. Gallagher in connection with this matter, except the trip to St. Louis?

Mr. ELLIOTT. He had to come here and go over these notes, and they had to be typewritten. He could not do any typewriting on the island, and these notes were transcribed.

Mr. SCOTT. That was done before August 31, was it not?

Mr. ELLIOTT. The notes were not transcribed there.

Mr. SCOTT. But he did it before August 31?

Mr. ELLIOTT. No, sir. This report was not ready for printing until along in October. We filed the manuscript and called attention to the notes.

Mr. SCOTT. He did not file his manuscript or his notes in shorthand?

Mr. ELLIOTT. No, sir; we simply cited the notes. We went to work to get the matter in shape, and as soon as we got it in shape the committee was called together to receive it—that is, the mechanical part of it.

Mr. SCOTT. The mechanical part of it was not very voluminous?

Mr. ELLIOTT. No, sir; but it had to be done.

Mr. SCOTT. But the testimony was not voluminous?

Mr. ELLIOTT. You can see what it is.

Mr. SCOTT. It is three or four pages of testimony.

Mr. ELLIOTT. Yes, sir; and many lawyers' briefs would go many times over that.

Mr. SCOTT. I believe that is all, Mr. Chairman.

#### TESTIMONY OF MR. A. F. GALLAGHER.

(The witness, being first duly sworn, testified as follows:)

Mr. STEPHENS. Mr. Gallagher, you have a claim against the Government for something over \$3,000. I wish you would state to the committee how that claim arises?

Mr. GALLAGHER. Perhaps I had better start at the beginning and state my connection with the committee?

Mr. STEPHENS. Yes, sir.

Mr. GALLAGHER. In June, 1913, I saw a newspaper article to the effect that the Committee on Expenditure in the Department of Commerce was going to make an investigation of the fur-seal conditions on the Pribilof Islands. Mr. Rothermel was the chairman of that committee, and my home town being Allentown, Pa., which is Mr. Rothermel's district, and I being a court reporter with offices in this city, I went to Mr. Rothermel and asked him for the employment to report whatever proceedings the committee would require reported while on that trip.

Mr. Rothermel said that he would arrange for the employment, and I think it was the 20th of June, 1913, Mr. Rothermel called me up on the telephone and told me that the committee had decided that in view of the conditions in the House at that time the committee itself could not go, but they had authority to send agents or somebody to represent them, and he told me then that the committee had taken action to send Mr. Elliott and myself up there. I told Mr. Rothermel that I would come and see him. I thought the matter over and came to the conclusion, as I was to go with only one other man and as the amount of my compensation as reporter would depend on the amount of testimony I took, that I did not think it was going to be a paying proposition for me, and I went and saw Mr. Rothermel and talked with him along that line, and he said, "Never mind; you will be well paid. You will be paid as an agent of the committee." I accepted the employment upon those terms.

Mr. STEPHENS. Was there any mention made of what the compensation would be?

Mr. GALLAGHER. There was not, sir, except that I would be well paid. I also understood from what Mr. Rothermel said that my expenses would be paid on a mileage basis of 10 cents a mile. In view of that statement, I kept no expense account—no detailed expense account—and could only estimate it.

Mr. STEPHENS. What is the amount of the account you filed? Three thousand three hundred and some odd dollars?

Mr. GALLAGHER. Yes, sir.

Mr. STEPHENS. How do you figure out that amount?

Mr. GALLAGHER. Mr. Chairman, I should like to say right here that I am not here trying to justify that amount, but I am here trying to fix on some amount. I have never adhered to any particular figure in this matter, and always told Mr. Rothermel that I was willing to agree on any figure that anybody fixed as reasonable. I also made that statement before the Committee on Accounts.

Mr. STEPHENS. We should like to have the benefit of your judgment as to what is reasonable for the services rendered?

Mr. GALLAGHER. Of course, in this matter of compensation I take into consideration a lot of things that I do not seem to be able to make other people take into consideration. If you should ask me how many days I was employed on the work I would say 80 days, approximately; but here are two days which, if I had not been engaged on this particular work, I would not have lost my present employment; and there have been days out of number that I have spent around the committee on the same proposition.

Mr. STEPHENS. We can not consider to-day, nor yesterday, nor any other day except those on which you were actually engaged in this work.

Mr. GALLAGHER. I understand.

Mr. STEPHENS. We can not pay you for making an effort to collect what you think is due you.

Mr. GALLAGHER. I want to make a statement right here. If I were paid the full amount called for in the resolution I would not consider myself overpaid.

Mr. STEPHENS. For the 80 days spent on the work?

Mr. GALLAGHER. Yes, sir.

Mr. SCOTT. Is there any legal provision for a per diem for court reporters in the District of Columbia?

Mr. GALLAGHER. No, sir. Now, there is one way in which I might arrive at the amount. In the last year, 1914, I earned \$6,200, and I suppose I made that amount in about nine months' work. For 365 days that would be approximately \$17 a day.

Mr. STEPHENS. But you are charging nearly twice that much here?

Mr. GALLAGHER. Yes, sir. I had no positive understanding with anybody as to how much I was to receive for doing this work, and after having completed the work I asked Mr. Elliott one evening what he thought, he knowing what I had done, would be a reasonable compensation for me, and he said "\$3,500," and I said "All right." That is the way the \$3,500 was arrived at—without any itemization or anything of that kind at all.

Mr. STEPHENS. You have not answered the question as to what is your best judgment as to the amount which should be paid. You have just stated that you fixed the amount at \$3,500, because Mr. Elliott made that suggestion to you?

Mr. GALLAGHER. Yes, sir.

Mr. STEPHENS. You have also stated that you made an average of about \$17 a day during the last year?

Mr. GALLAGHER. Yes, sir.

Mr. STEPHENS. While engaged on other work; but you have not answered the question as to how much you should be paid for this particular work, the 80 days you were actually engaged on it?

Mr. GALLAGHER. I consider this particular work more unpleasant and more hazardous than my daily employment. If I had had as

much foresight as hindsight, I would not have become connected with it for anything. I have not answered your question yet. Take the figure which is fixed by the House of Representatives as compensation for stenographic work, which is \$5,000 a year, the reporters in the House of Representatives do not work every day in the year, but let us say \$20 a day for the days they work—if I received \$20 a day for 75 days, to make it sure, I would be satisfied.

Mr. SCOTT. That is \$1,500?

Mr. GALLAGHER. Yes, sir.

Mr. STEPHENS. What was the amount of your expenses in making this trip?

Mr. GALLAGHER. As I said, I did not keep a detailed expense account. I tried to approach it, and I estimated some \$450, but I do not believe that will cover it.

Mr. ELLIOTT. It cost me \$500, but I could itemize only \$467.

Mr. STEPHENS. You left here on the 20th of June, 1913?

Mr. GALLAGHER. No, sir; I left on the 22d day of June, 1913.

Mr. STEPHENS. When did you return?

Mr. GALLAGHER. On the 21st of August, 1913.

Mr. STEPHENS. How many days did you spend on this work after your return from Alaska?

Mr. GALLAGHER. I spent every day in connection with this work up until the 3d of September, when I signed the report. I not only spent my own time, but I employed typewriters to do the work. Mr. Scott seems to think that there was no typewriting done. I paid a bill of \$19.60, which would indicate 196 typewritten pages.

Mr. SCOTT. That included the copying of the exhibits and the matter prepared by Mr. Elliott?

Mr. GALLAGHER. No, sir; it did not. It included what I took right up on the islands.

Mr. ELLIOTT. The work you refer to I did in longhand.

Mr. STEPHENS. You took 196 pages of testimony in Alaska?

Mr. GALLAGHER. Not testimony; but testimony and other matter.

Mr. STEPHENS. Documentary papers?

Mr. GALLAGHER. Yes, sir. I went with Mr. Elliott all over the different rookeries and took notes at his dictation.

Mr. ELLIOTT. Let me say that as we went along I dictated and Mr. Gallagher took it right down, and that is an exact transcript. When the wind is blowing and the rain is falling it is almost impossible to make notes there, and at night we would come in late, worn out and tired out, and get up early the next morning, and so there was no time to transcribe anything there.

Mr. STEPHENS. Is there anything else which you would like to say to the committee, Mr. Gallagher?

Mr. GALLAGHER. I would like to say that by making the trip to St. Louis at the time I did I suffered a loss of between \$500 and \$700.

Mr. STEPHENS. When was the trip made?

Mr. GALLAGHER. In November, 1913.

Mr. STEPHENS. How long did you remain there?

Mr. GALLAGHER. Five days.

Mr. STEPHENS. That is all the work you did for the committee after the 3d of September in regard to this matter?

Mr. GALLAGHER. I appeared before the committee and testified.

Mr. STEPHENS. As a witness you made a statement?

Mr. GALLAGHER. Yes, sir. I also came up here at other times when other people were testifying, because I was wanted, and I also conferred with the chairman of the committee at various times, all of which took my time.

Mr. SCOTT. When did you go to St. Louis?

Mr. GALLAGHER. I believe I went to St. Louis on November 19, 1913. The trip covered nine days in the middle of November, 1913.

Mr. SCOTT. What did you do after you arrived there; what particular service did you render?

Mr. GALLAGHER. After I arrived there I went to the fur house of Funsten Bros. & Co. Funsten Bros. & Co. had then received a shipment of approximately 2,200 sealskins from the islands, representing the catch of that season, I believe. Among those 2,200 skins were 400 skins on which a test had been made on the islands as to the weights, measurements, etc. I was sent down there to separate those 400 skins from the balance of the 2,200 skins.

Mr. SCOTT. Were those 400 skins baled?

Mr. GALLAGHER. Bundled; yes, sir.

Mr. SCOTT. Bundled together?

Mr. GALLAGHER. Yes, sir.

Mr. SCOTT. Were they all in one bundle?

Mr. GALLAGHER. No, sir; there were two skins in each bundle.

Mr. SCOTT. They were not baled in large bundles?

Mr. GALLAGHER. No, sir; two skins in each bundle.

Mr. SCOTT. Those skins were labeled—the bundles were labeled?

Mr. GALLAGHER. The bundles were not labeled on the outside, but each skin was tagged on the inside separately, the tag being hidden, and we had to open the whole 2,200 skins in order to find the 400 that we wanted to identify.

Mr. SCOTT. They were put in indiscriminately?

Mr. GALLAGHER. Yes, sir.

Mr. SCOTT. Why were not those skins separated; why were they not separated after they had been tagged and inspected in Alaska, do you know?

Mr. GALLAGHER. No, sir; I do not know.

Mr. ELLIOTT. Will you permit me to answer that question?

Mr. SCOTT. Certainly.

Mr. ELLIOTT. Because, if we had given the faintest hint of what we were going to do, they would have opened them and destroyed the evidence.

Mr. SCOTT. You suspected that they might do so?

Mr. ELLIOTT. Yes, sir. That is the reason we had no outward sign given to those people. I was going to claim those skins. Then I went to the Secretary of Commerce and he cooperated with me and we got them.

Mr. GALLAGHER. Mr. Scott, you tried to show during your examination of Mr. Elliott that my work apparently did not amount to very much. I think that is outside the question. I think if I made that trip and did not do a single minute's work, the fact that I gave my time to the committee and accepted the employment in good faith justifies me in seeking compensation.

Mr. ROTHERMEL. May I ask the witness a question?

Mr. STEPHENS. Certainly.

Mr. ROTHERMEL. You went to St. Louis at the suggestion of the Secretary of Commerce?

Mr. GALLAGHER. Well, I did not know that at the time I went down there with you. I thought I was accepting employment from the committee.

Mr. ROTHERMEL. On that trip to St. Louis there was a man from the department?

Mr. GALLAGHER. Yes, sir; a gentleman from the Department of Commerce accompanied me.

Mr. STEPHENS. Mr. Scott asked Mr. Elliott a few moments ago about the compensation of Mr. Cole. I want to ask you whether or not you know anything about Mr. Cole's connection with this affair and any agreement to compensate him?—

Mr. GALLAGHER. Mr. Chairman, that same question was asked me before the Committee on Accounts, and I can only answer in the same way, that on the 5th of August, I believe, after this report of the committee was submitted to the House, Mr. Rothermel, Mr. Elliott, and I got together in Mr. Rothermel's room and conferred upon this question of compensation, and Mr. Elliott at that time said to Mr. Rothermel: "There will be no clerk business in this; I will take care of Charlie."

Mr. SCOTT. Who said that?

Mr. GALLAGHER. Mr. Elliott.

Mr. STEPHENS. Who is Charlie?

Mr. GALLAGHER. Mr. Cole.

Mr. SCOTT. This Mr. Cole, here?

Mr. GALLAGHER. Yes, sir.

Mr. STEPHENS. He was employed there by the committee?

Mr. GALLAGHER. Yes, sir.

Mr. STEPHENS. And he worked in the committee room?

Mr. GALLAGHER. Yes, sir.

Mr. STEPHENS. And Mr. Elliott's statement was that there would be no clerk hire in this; that he would take care of Charlie?

Mr. GALLAGHER. That there would be no clerk's business in this, Mr. Elliott having in mind the Kirby matter.

Mr. STEPHENS. Did Mr. Elliott ever mention Mr. Cole to you in regard to his pay, and so on?

Mr. GALLAGHER. Mr. Elliott did, but he never led me to believe that he was going to give him any great sum. Mr. Cole always told me that Mr. Elliott had agreed to pay him as clerk of the committee, but I always felt in my own mind that there was some variance between Mr. Elliott and Mr. Cole as to what Mr. Elliott was to pay Mr. Cole.

Mr. STEPHENS. Mr. Elliott never made any statement to you as to the amount he was to pay?

Mr. GALLAGHER. No, sir.

Mr. ELLIOTT. May I say one word there?

Mr. STEPHENS. Certainly you may.

Mr. ELLIOTT. When the statement was made to which Mr. Gallagher refers, which is entirely correct—it was not "I will take care of Charlie," but it was "We will take care of Charlie"—I had reference at that time to the fact that Charlie was an applicant for a position in the Department of Commerce in Alaska, and three letters had been written, one by Mr. Rothermel, one by Mr. Palmer, and

one by Mr. Lee, urging his appointment as an agent of the salmon fisheries, and I told Charlie when this thing was over I would go up there and personally see Mr. Redfield and urge his appointment. That is what I meant by taking care of Charlie, plus anything else I might do for him, which would be a small matter. That is the matter I had in mind about taking care of him, getting him a job.

Mr. SCOTT. How did that matter become pertinent to the conversation you were having at the time?

Mr. ELLIOTT. It had reference to the fact that Charlie was without means and needed something that would help him.

Mr. SCOTT. He had been acting as clerk of the committee for some time?

Mr. ELLIOTT. I do not know whether he was acting clerk of the committee.

Mr. SCOTT. He had been present?

Mr. ELLIOTT. Yes, sir; as Mr. Rothermel's secretary. I never heard him called the clerk.

Mr. SCOTT. As his secretary?

Mr. ELLIOTT. Yes, sir. I never had any conversation with Mr. Rothermel about Charlie, what he was paying him, or anything; I never asked him a question and Charlie never told me.

Mr. STEPHENS. Was there any other secretary to the committee at that time?

Mr. ELLIOTT. Not at that time.

Mr. SCOTT. In your conversation with Mr. Elliott you came to a tentative agreement as to the amount that each man was to be allowed and the figures were taken to Mr. Watkins to get his opinion?

Mr. GALLAGHER. Yes, sir.

Mr. SCOTT. What was the amount that was to be apportioned to each man under that tentative agreement?

Mr. GALLAGHER. Well, I only know directly about my own, Mr. Scott, I know by hearsay what Mr. Cole carried down there—what Mr. Cole told me himself.

Mr. SCOTT. You were present at that time?

Mr. GALLAGHER. Yes, sir.

Mr. SCOTT. What was the arrangement, temporary, tentative, of course?

Mr. ROTHERMEL. At whose instance did he carry it to Mr. Watkins?

Mr. GALLAGHER. I do not know at whose instance.

Mr. SCOTT. You were talking, free and easy, among yourselves?

Mr. GALLAGHER. I have an idea now that Mr. Elliott, as a matter of compensation, was to get \$5,000, and later he told me that he always intended to include \$1,000 for his expenses in addition to that.

Mr. SCOTT. It was subsequently raised to \$6,000?

Mr. GALLAGHER. Yes, sir.

Mr. SCOTT. Is it not a fact that out of the \$1,000 he was to take care of Cole's work for the committee, did you so understand it?

Mr. GALLAGHER. I so understood from Mr. Cole, but the statement was never made to me by Mr. Elliott.

Mr. SCOTT. Was there any explanation ever made for the raise from \$5,000 to \$6,000 to you or in your presence?

Mr. GALLAGHER. Mr. Elliott said that the \$1,000 was to cover his expenses.

Mr. SCOTT. What expense do you mean; car fare, etc.?

Mr. GALLAGHER. Yes, sir; the expenses of the trip.

Mr. SCOTT. Do you know what figures Mr. Cole took down to Mr. Watkins for approval?

Mr. GALLAGHER. I do not think that I could testify from my own knowledge, except I know Mr. Cole told me that there was \$8,500 on on the slip.

Mr. SCOTT. And that was to cover everybody?

Mr. GALLAGHER. Yes, sir.

Mr. STEPHENS. When did he go down to see Mr. Watkins—immediately after you gentlemen had this conversation in regard to compensation, which you have already referred to?

Mr. GALLAGHER. Yes, sir.

Mr. STEPHENS. In that conversation which you gentlemen had was \$8,500 the amount agreed upon, or what was the amount actually agreed upon?

Mr. GALLAGHER. I do not like to testify positively about Mr. Elliott's compensation. He never did mention the fact of the amount of money that he was to receive in any way at that particular time. I had an idea that he was to get \$5,000. I think that was to cover everything. He told me later that there was \$1,000 additional, which was to cover his expenses.

Mr. STEPHENS. What sum was mentioned in the conversation when you were discussing compensation?

Mr. GALLAGHER. As I recall, \$8,500 was mentioned.

Mr. STEPHENS. The very amount which Mr. Cole told you he took to Mr. Watkins?

Mr. GALLAGHER. Yes, sir.

Mr. ROTHERMEL. I want to ask a question.

Mr. STEPHENS. Certainly.

Mr. ROTHERMEL. The committee had instructed me to get the bills from you and Mr. Elliott. How did it happen that they were submitted to Mr. Watkins? That is what I do not understand. This is the first that I have heard about it.

Mr. GALLAGHER. I remember Mr. Cole going out of the room with a slip and coming back and saying that he had been down to see Mr. Watkins. I do not recall that he said what Mr. Watkins told him.

Mr. ROTHERMEL. This is the first time that I have ever heard of that.

Mr. GALLAGHER. Mr. Cole evidently supposed that he had some financial interest in the matter, because he took a particular interest in it.

Mr. STEPHENS. Did he engage in the conversation with you when you discussed the compensation—Mr. Cole, I mean?

Mr. GALLAGHER. I do not remember, Mr. Chairman.

Mr. STEPHENS. He was in the room?

Mr. GALLAGHER. Yes, sir. Then he took this paper and went out.

Mr. SCOTT. Did the conversation had at that time and place between you and Mr. Elliott in the presence of Mr. Cole leave you with the impression that Mr. Cole was to receive a part of the aggregate of \$8,500?



Mr. GALLAGHER. Mr. Cole always told me, and I had an idea that he was to be compensated by Mr. Elliott. To what extent I do not know.

Mr. SCOTT. The question is, did that conversation there leave you then with the impression that part of the \$8,500 was to go to Mr. Cole; some part of it?

Mr. GALLAGHER. I would say, yes; although that is a hard question to answer. Having been told by Mr. Cole that he was to be paid by Mr. Elliott, and having been told also by Mr. Elliott that he was going to give Charlie some compensation, I do not know that I could separate that.

Mr. ROTHERMEL. Let me say this: The committee had instructed me to inform Mr. Elliott and Mr. Gallagher to submit their bills, and it was immaterial to me as to the amount because that was to be left open to be passed on by the committee, and if anything had been said in my presence I would not have tolerated it for a minute. That is the truth. I had an understanding with Mr. Cole and he was regularly paid for being in the room.

Mr. SCOTT. He had already been regularly paid?

Mr. ROTHERMEL. Yes, sir; on the contract he had with me. I only say this to refresh Mr. Gallagher's recollection.

Mr. GALLAGHER. I want to say in view of Mr. Rothermel's suggestion that I always had an entire misconception of this thing. The committee having employed me, through Mr. Rothermel as chairman, I thought when it came to the matter of compensation that Mr. Rothermel, as chairman, could fix the compensation. When Mr. Elliott suggested \$3,500, I said, "All right."

Mr. ELLIOTT. I might say that that suggestion was made on April 2, 1914, at night?

Mr. GALLAGHER. It was the same night after Mr. Rothermel had called me up during the day.

Mr. ELLIOTT. When was that?

Mr. GALLAGHER. You said that it was April 2.

Mr. ELLIOTT. Yes; at night; was it not?

Mr. GALLAGHER. About that time.

Mr. ELLIOTT. Then we remarked upon the sums. I was to have \$5,000 and \$1,000 for living and traveling expenses, and you were to have \$3,500, and Mr. Rothermel made a pencil note in order to draw up the resolution, and I asked him to hold it until the minority report was filed, and you agreed.

Mr. GALLAGHER. I agreed to anything.

Mr. ELLIOTT. That agreement for \$9,500 was made April 2, 1914.

Mr. STEPHENS. Do you wish to say anything further, Mr. Gallagher?

Mr. GALLAGHER. I should like to submit now the figure to which I think I am entitled. I think, to make matters sure, that I spent at least 75 days on this work, and at \$20 a day that would be \$1,500, and I think I actually spent \$500 for expenses.

Mr. STEPHENS. Making \$2,000?

Mr. GALLAGHER. Yes, sir; making \$2,000. I have never been reimbursed for 1 cent of my expenses. I do not want to lose any more time about this matter, and if the committee does not see fit to pay me, wipe it off. I do not want to be running around and

having these people call me on the telephone to come to committee meetings and hang around here. If it is not satisfactory, wipe it off. I did not know that I was accepting employment on a gamble or I would not have made as much noise as I have.

Mr. STEPHENS. If you have nothing further to say, Mr. Gallagher, we will excuse you and promise that this committee will not call you again.

### STATEMENT OF HON. BIRD McGUIRE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA.

Mr. STEPHENS. Mr. McGuire, we should like to have you make your statement in your own way, and if we want to interrogate you perhaps we will do so later.

Mr. McGUIRE. Mr. Chairman and gentlemen of the subcommittee, I have been one of the members of the Committee on Expenditures in the Department of Commerce since these hearings began. There was an investigation in 1911 on charges preferred by Mr. Elliott. Mr. Madden, of Illinois, and myself were the minority members of the committee at that time. Everything was completed, the majority report was filed, and the minority presented its views, and we closed the hearings—closed anything. The committee then changed to some extent, and Mr. Patton, of Pennsylvania, came on the committee.

Mr. ROTHERMEL. May I suggest that Mr. Patton was a member of the committee in the previous Congress and that there were three of you?

Mr. McGUIRE. Maybe that was it. Mr. Madden went off the committee; perhaps that would be better.

The committee, as we viewed it at that time, without any authority whatever under the rules of the House, and in face of the fact that there had been exhaustive hearings and all of the reports had been filed, proceeded again with another hearing. That was over the protest of Mr. Patton and myself.

We are making the contention that there was absolutely no authority whatever given by the House, and there was not; that the committee was acting outside of and beyond its jurisdiction; that as a matter of law there was no right, and that as a matter of fact there was no occasion for anything of the kind. The hearings had been so exhaustive—and Mr. Elliott's statements seemed to be the storm center of misinformation and of contradiction with himself—that we really tried to prevent any further investigation. Seemingly he took charge of the committee room, and I could not call up the committee over the phone that he did not answer. He was always there and always in charge, and he was the man who had made the charges of fraud in Alaska. I have abundant evidence that he wrote this report, and I think he did.

Mr. SCOTT. Which report do you refer to?

Mr. McGUIRE. The majority report.

Mr. SCOTT. He has said that he did.

Mr. McGUIRE. He said that he wrote the report.

Mr. SCOTT. I understood you to say that you prepared the report.

Mr. ELLIOTT. That was this report [indicating].

Mr. McGUIRE. Here was the man who preferred the charges, a man discredited, as I will show you by quotations from leading men

of the country, from Republicans and Democrats alike, and who, in my judgment, had discredited himself in a hundred different ways in his testimony—it is the most reckless testimony that I ever heard in my life—yet, this man was sent wrongfully and unlawfully by the committee to investigate his own charges. His own testimony states that he was told to remain away from the Government officials on the island. I will not go into the details, but such facts as were reported by him after he returned with respect to the number of seals corroborated exactly the department officials theretofore, and then contradicted himself completely and thoroughly. The only reliable fact he obtained, in my judgment, in view of all the evidence—and I have heard this evidence time and again—as I say, the only fact that he obtained while up there was what everybody but Elliott knew, and that was as to the approximate number of seals.

Now, I want to read a few documents, gentlemen, in part contradictory of Mr. Elliott's statements here. These documents, taken in connection with other things which I know bearing upon the same question as to the employment of various persons before the committee, will disclose to some extent the lamentable state of affairs that existed in that committee. I will now read you from this communication which is addressed to myself:

Confirming my conversation with you this afternoon in reference to my connection with the Committee on Expenditures in the Department of Commerce, of which committee you are a member and which I served as its clerk. I desire to say that during my service Mr. Rothermel as chairman did very little in reference to the work of the investigation of the fur-seal matter.

Mr. H. W. Elliott, I am prepared to say, wrote up the report of the chairman, and it was then sent to Miss Clara Young, at Reading, who copied it on the typewriter and returned it to Mr. Rothermel.

Now, gentlemen, the man who preferred the charges, the man who was selected to go up there, and the man who compiled all of this stuff, which is largely a repetition of what he has said heretofore and put in the record himself, wrote the report, according to this statement. The letter continues:

After same was received by him he looked over it and requested me to insert some parts of the hearings, and which Mr. Elliott suggested as he was better familiar with it he would do it, and he did. I then handed to several of the newspapers copies of it, and the original Mr. Rothermel kept and presented it to the House for action, and I have since learned that no action was taken by the House. After it was discovered that the House took no action Mr. Rothermel went to see the Attorney General with the suggestion that he should bring suit against the lessees of the seal islands. The matter was also taken up by me, at Mr. Rothermel's suggestion, with the Secretary of Commerce, so that he would act in conjunction with the Attorney General, and Mr. Redfield, in a letter to either Mr. Rothermel or Mr. Elliott, stated that he could do nothing as no congressional action was taken.

Mr. Elliott then got busy and wrote several letters in longhand addressed to the Attorney General and the Secretary of Commerce, and I copied them on the typewriter, and Mr. Rothermel signed them as chairman of the committee. Mr. Elliott also made several trips in person to the Attorney General and to Secretary Redfield, and I think that on one of these trips he was accompanied by Mr. Gallagher. In the report to Hon. James T. Lloyd, chairman of the Committee on Accounts which was considering the payment of the \$9,500 resolution, Mr. Elliott also wrote the letter, and Mr. Rothermel signed it, to show the Committee on Accounts the great work that was accomplished by Mr. Elliott and Mr. Gallagher in going to Alaska and stating a number of other reasons stating why his (Mr. Lloyd's) committee should pass favorably upon the payment of same.

There were quite a number of various reports that were gotten up for the majority members of the committee, which I wrote on the typewriter under instructions from Elliott, and Mr. Rothermel signing same as chairman. Mr. Elliott has a key to the committee room, and during my seven months' service he was the whole thing.

Sincerely, yours,

CHAS. L. COLE.

MR. ROTHERMEL. May I ask a question there, Mr. Chairman?

MR. STEPHENS. Certainly.

MR. ROTHERMEL. Did you read the letter to Mr. Lloyd, in which I asked him to pass favorably on this bill?

MR. MCGUIRE. I did not even know you wrote a letter.

MR. ROTHERMEL. You said it was signed by me.

MR. MCGUIRE. I have been reading Mr. Cole's letter.

MR. ROTHERMEL. Did you see a letter to Mr. Lloyd which I signed, asking him to pass favorably upon this bill?

MR. MCGUIRE. I did not say that I saw any letter. I was reading Mr. Cole's letter, and I have some other letters I would like to read in that connection.

MR. ROTHERMEL. Did you say you did not see such a letter?

MR. MCGUIRE. I have already said I did not see any letter. I am reading Mr. Cole's statement made in a letter to me. I do not know what the purpose of the gentleman is in asking the question.

MR. ROTHERMEL. The purpose was to see whether there was any evidence outside of this.

MR. MCGUIRE. Here is another letter. This letter is dated January 5, 1914. The other letter was dated January 4, 1914. Gentlemen of the committee, I regret anything of this kind, but I think I have a duty to perform, and I have seen so much of this matter that it seems to me Congress is entitled to know some of the facts, for whatever the facts may be worth to us. This letter, which is dated January 5, 1914, is addressed to "Hon. Bird S. McGuire, House of Representatives, Washington, D. C.," and it says:

Confirming my conversation with you this afternoon in reference to the Kathryn Kirby matter—

that is the Miss Kirby who is now Mrs. Hummel and who was at one time employed by the committee—

I desire to say that on or about April 23, 1914, Representative John H. Rothermel gave me a check for \$50 on the National Capital Bank and asked me to go to the office of the Sergeant at Arms and get him the cash, which I did. Upon my return I found that Miss Kirby was with him, and after I handed Mr. Rothermel the \$50 he handed same to Miss Kirby, at the same time asking her to sign a paper which he handed her. Miss Kirby glanced at the paper and then refused to sign it, whereupon Mr. Rothermel stated to her that then she could not have the \$50. She stated that under no circumstances would she sign the paper, and she then left the office and Mr. Rothermel kept the \$50. I did not know at the time what she was supposed to sign, but later on I met Miss Kirby and asked her in reference to the matter and she told me that the paper that Mr. Rothermel requested her to sign was a receipt dated back six weeks, which, if she signed, would make it appear that he (Mr. Rothermel) had paid her everything he owed her up to date, and appearing as it did it would lead people, and especially Members of Congress, to believe that the statements she made before the Committee on Accounts prior to the paying her of the \$1,200 were untrue and that she had been paid everything that Mr. Rothermel owed her up to April 23 appear as to have been paid her six weeks before.

I remember very well the whole transaction, because Mr. Rothermel remarked to me after Miss Kirby left that I was a witness to the transaction and saw

that she refused to accept the money. Mr. Rothermel never showed me the paper that he wanted her to sign, nor informed me as to its contents, which I afterwards learned from Miss Kirby herself.

Very respectfully,

CHAS. L. COLE.

Mr. ROTHERMEL. May I ask a question right there?

Mr. STEPHENS. Certainly.

Mr. ROTHERMEL. Are you aware of the fact, Mr. McGuire, that Miss Kirby had been regularly paid by me, according to an understanding we had? Did you not hear that in the House?

Mr. MCGUIRE. I heard that statement, Mr. Rothermel; something to that effect.

Mr. ROTHERMEL. And did not Mr. Lloyd state that she told him she had been regularly paid?

Mr. MCGUIRE. Had you paid her at that time?

Mr. ROTHERMEL. Yes, sir.

Mr. MCGUIRE. You had completely paid her at that time?

Mr. ROTHERMEL. Yes. Now, there is just one more question I want to ask. I want to clear up some things here so that you will see what some people say who are hanging around here.

Mr. McGuire, on the 23d of April I offered her the \$50 a week in advance and asked her to sign a receipt in full. She walked out and refused. I have the papers in my office in regard to that. I offered her \$50 a week in advance, and Judge Watkins knows it. There is not a word of truth in what you get from Mr. Cole.

Mr. MCGUIRE. I believe you said you had paid Miss Kirby at that time?

Mr. ROTHERMEL. Yes; except the last month, and that I offered her on the 23d, which was several days before she was entitled to the money, according to contract.

Mr. MCGUIRE. Then you had not paid her all. When did you pay her the last payment? Have you ever paid her?

Mr. ROTHERMEL. Yes.

Mr. MCGUIRE. When?

Mr. ROTHERMEL. A week or two ago. She said Mr. Cole went to see her and asked her whether or not she would not testify against me, according to the story he has told you here.

Mr. MCGUIRE. I have another letter from Mrs. Hummel which states the facts with reference to the last payment. There was \$50 paid a few days ago. I have the letter from Mrs. Hummel that would be very interesting to the committee, I am sure. I thought I had it here, and I had intended to read it in connection with the other letter, and that was the only purpose I had in reading the other letter. I do not seem to have Mrs. Hummel's letter here with me, and I want to ask leave to file that letter with the committee. I have it in my office. I thought I had it here. It is simply a statement of what transpired the other day when the \$50 was paid.

Mr. STEPHENS. I do not exactly see the pertinence of this matter in connection with the question under investigation at the present time.

Mr. MCGUIRE. It might be regarded as irrelevant, but I will say this, that I will make a statement on the floor of the House, and I think I will be able to prove what the relations of the chairman of

the committee with this man have been; that they have been rather strange for a man who has preferred charges against Government officials. I shall make a statement that he retained a key to that office. I shall make a statement on the floor of the House that the evidence is that he wrote the reports, based on his own charges and his own investigation.

Mr. STEPHENS. I understand that, but I was speaking particularly in regard to his paying or not paying Miss Kirby, and his dealings with her.

Mr. McGUIRE. I only brought that in, as I say, in order to show something in regard to the controversy—and there is a controversy between Mr. Elliott and Mr. Cole, and I simply brought it in as a matter, you might say, of impeachment, and Miss Kirby's letter may disclose my purpose. It is simply a question of impeachment of Mr. Elliott. I want to show that he has contradicted everybody who comes in contact or conflict with him, if they do not agree with him.

Mr. STEPHENS. That Mr. Elliott does that?

Mr. McGUIRE. Yes. Now, then, he has made a statement here at great length as to what he has accomplished and what he has done. My position, of course, is that there is not any part of that which is very true. He assumes in his statement made here that there is great fraud, and all that sort of thing. Exactly the opposite is true.

Mr. STEPHENS. Of course this committee is not bound by the strict rules of law and evidence as a lawyer would be if he were trying a case in court, but it seems to me it would be better to have Mr. Cole make his own statement rather than read letters he has written, and that it would be better to let Miss Kirby make her own statement rather than read into the record statements she has prepared and sent in by means of a letter. Do you not think that would be better?

Mr. McGUIRE. As a matter of strict evidence, certainly.

Mr. STEPHENS. As a matter of strict evidence, it would have to be that way.

Mr. McGUIRE. I was simply proceeding on the theory that from a moral point of view and from a legal point of view, this bill, so far as Mr. Elliott is concerned, should not be paid.

I am proceeding on the theory that Mr. Elliott is unworthy of belief. I brought these things in for purposes of impeachment, and it is only a small part of what I intend to present.

Mr. STEPHENS. I do not see how the failure to pay Miss Kirby supports either one of those theories.

Mr. McGUIRE. Not the question as to whether she was or was not paid. Mr. Rothermel raised the question by interrogation, after I had read the letter. I had no intention of going into the details as to whether she was or was not paid in full. I had the facts.

The chairman is quite right in saying that Mr. Cole should make his own statement. These are letters which he wrote me, and I simply want to show the relations between Mr. Cole and Mr. Elliott, and almost everybody else to Mr. Elliott, in order to find out who is telling the truth in this matter, because all the persons are not.

Mr. STEPHENS. Have you something else you desire to put into the record?

Mr. McGUIRE. Yes, sir; I have.

As I say, I always found Mr. Elliott in the committee room. He would always answer the telephone, from the time Miss Kirby left, and generally while she was there. In the course of the hearings there were accusations made by Mr. Elliott against a great many different people, and as one of the members of the committee my idea was to ascertain whether Mr. Elliott was reliable. I proceeded to do that by an investigation as a member of the committee. These charges were just a rehash of Mr. Elliott's. He would refer to the record to prove what he said, and there was something else in the records in the past showing what Mr. Elliott had said. It then became a material question as to whether Mr. Elliott has ever been in the employ of the Alaskan Commercial Co.

I undertook to make an investigation as to whether Mr. Elliott had been in the employ of the Alaskan Commercial Co. That was the first company that ever took a lease on the islands. Their lease, I think, extended from 1870 to 1890. There was a controversy between this Alaskan Commercial Co. and the North American Commercial Co., or sealing company. My first information from Mr. Elliott—this might be backed by the record—my first information from Mr. Elliott was that it was an awful imposition to say he had ever been in the employ of the Alaskan Commercial Co., that it was a slanderous and an outrageous thing. Mr. Madden will tell you the same thing. So it ran on until we finally looked back and found an old record in a hearing before the Ways and Means Committee, after Mr. Elliott had stated that he never had been in the employ of the Alaskan Commercial Co.: we found this record. He finally confessed that he had been in their employ and had received thousands of dollars from them.

Mr. ELLIOTT. Where are the records? Bring out the records.

Mr. McGUIRE. I have the records right here now.

Mr. ELLIOTT. I have the record, too.

Mr. McGUIRE. I brought these other matters up simply to determine the veracity of the parties concerned, and to show, in view of that most unfortunate condition that in regard to this material matter, he testified over and over again both ways, and the minority of the committee felt it could not do justice to either itself or to the Congress without recommending that he be prosecuted, and so the recommendation is contained in this minority report, that the Department of Justice look into it, and there can not be any doubt about the outcome if he is prosecuted. There can not be any possible doubt about that.

I want to read to the members of the committee a few of the observations of the minority.

Mr. ELLIOTT. There is an answer to that.

Mr. McGUIRE. Of course, after the minority report was made Mr. Elliott had to write another report. He has continued to write reports, and charges them to the Government.

I want to read to you what the minority report says on page 12:

Perhaps nothing can better demonstrate his methods than to bring out his invariable habit of imputing improper motives to and otherwise charging all public men who, in legislative or administrative matters relating to the seals, either disregarded the gratuitous and offensive advice of Elliott or who took action in such matters in a manner which did not meet with Elliott's approval. It is impossible for the undersigned in the short time available to review El-

Hott's history during the many years he has been pursuing his tactics, and to cite all the vicious and unjust criticisms of public men he had published in that time. The present hearings, however, afford sufficient examples to sufficiently portray his methods. In them, for instance, he has accused various public men of irregularities in connection with the seal question. They are—

Mr. STEPHENS. They all appear in the record?

Mr. McGUIRE. The record is full of them.

Mr. ELLIOTT. It is all borne out in the testimony.

Mr. McGUIRE. The record goes on to say:

They are: Presidents Benjamin Harrison and Grover Cleveland. (Hearing 4, p. 193.) The following Secretaries of departments: James G. Blaine and John W. Foster. (Hearing 3, second series, p. 785.) Charles Foster. (Hearing 10, p. 668.) L. J. Gage. (Appendix A, p. 8.)

You will find all these references on the pages which are noted, so that you may see just what he says of them in the record.

The report goes on to name some other public men to whom he refers—

Elihu Root. (Hearing 4, p. 201.) Richard Olney. (Hearing 4, p. 201.) Charles Nagel. (Hearing 1, second series, pp. 221, 237.) Assistant Secretary C. S. Hamlin. (Hearing 12, pp. 763, 767.) The following Senators: John T. Morgan. (Cleveland Plain Dealer, Jan. 12, 1908.)

I will show you a little later what Mr. Morgan had to say about Mr. Elliott—

C. W. Fairbanks. (Hearing 4, pp. 212, 213.) S. B. Elkins. (Hearing 10, p. 568.)

The following Congressmen: C. H. Grosvenor. (Cleveland Plain Dealer, Jan. 12, 1908.) Sereno E. Payne. (Hearing 10, p. 620.)

and many others solely because of the fact that they differed with Elliott as to manner in which a public trust legally imposed upon them should be administered.

He has stigmatized as "scientific prostitutes," "carping and incompetent critics," "hogwash experts," and various other like terms such reputable men as David Starr Jordan, president of Stanford University; Dr. F. A. Lucas, curator in chief of the American Museum of Natural History; Dr. C. H. Townsend, in charge of the New York Aquarium; Dr. Leonhard Stejneger, curator in chief of the United States National Museum; Dr. Barton W. Everman, director of the museum of the California Academy of Sciences; and all other scientific men who have opposed his erratic contentions regarding conditions surrounding seal life, and his equally unfounded conclusions regarding the actions of the Government officers and of the legally constituted lessee of the sealing right in connection with the taking of sealskins. To quote the extravagant expressions of vituperation which Elliott has heaped upon these above-mentioned men, because of their having had the temerity to appear at these hearings and testify in a manner to refute Elliott's testimony, would be to give additional publication to expressions that, to say the least, are not currently used among decent men. (Hearing 1, 2d ser., p. 6; hearing 7, p. 301.)

It is hardly necessary to state that Elliott has been repudiated by the scientists named above and by many others, all of whom have examined the seal rookeries and, as a result, have reached conclusions wholly divergent from those advanced by Elliott. In fact, Elliott stands alone, repudiated by all save and except the majority members of this committee.

During the years in which Elliott's charges have been made to Congress they were referred in each instance to and were examined and repudiated by the Committee on Ways and Means so many times that the dates and sessions need not be specified.

Mr. ELLIOTT. You can not specify one of those sessions.

Mr. McGUIRE. The whole thing—these charges have been standing for 20 years, and they have been before the Ways and Means Committee a number of times, regardless of party.



Mr. ELLIOTT. I deny that.

Mr. STEPHENS. Do not interrupt the witness, please.

Mr. ELLIOTT. I beg your pardon.

Mr. McGUIRE. The report goes on to say:

In more recent years the Ways and Means Committee, after an exhaustive series of hearings on his charges, became so disgusted with his baseless complaints and with his vituperation of public men of high standing, then dead, that they refused to publish the hearings and virtually hooted him out of the committee room.

We are taking this from the testimony.

Mr. ELLIOTT. There is no testimony to that effect.

Mr. McGUIRE (reading):

In that hearing, which was held in 1907, Mr. C. H. Grosvenor, of Ohio, informed Elliott that he (Elliott) was the most contemptible and insulting witness that he had ever heard before any committee. In the hearing on the bill to give effect to the seal treaty now in force, held before the Committee on Foreign Affairs, January, 1912, Elliott appeared and testified at length, pursuing his customary tactics of slandering all those who differed with him. The committee, however, reported to the House a bill which was directly opposed to Elliott's recommendations, which bill the House passed by a vote of 2 to 1. The Foreign Relations Committee recently, in a hearing to consider confirmation of the appointment of the present Commissioner of Fisheries, had Elliott before it as a witness, and, after listening to his testimony, in which he strongly opposed the confirmation, took action directly at variance with Elliott's protest.

There are a number of incriminating documents that were secured for the purpose of that hearing, and I think I can produce those documents. The Secretary of Commerce and Labor secured them. He wanted the confirmation and took them over to the committee.

If you will remember that point and read Mr. Elliott's testimony near the close of these hearings, in connection with his examination over there, when he was confronted with the documents, it may be of some interest to the committee.

The report goes on to say:

The opinion of the undersigned regarding the unreliability of Elliott—the sole witness by whom these charges are sought to be substantiated—is not founded solely upon his testimony, his actions, and demeanor before the committee, although they are of a nature sufficient to allow any unbiased person to form a correct estimate of Elliott's lack of trustworthiness. The following persons, men of unquestioned integrity and judgment, have had this to say of him:

Gen. O. H. Howard: "During the year 1865, Mr. Elliott, then an employee of the telegraph company that attempted to establish a line from America to Europe, via Siberia, was stationed at Puget Sound, about 800 miles from the southern boundary of Alaska, and never approached it nearer than that until the year of 1872, when it had been five years American territory.

"On the strength of this Mr. Elliott asserts that he has been in Alaska before the American advent. We will now show what experience he has had in the country since.

"Mr. Elliott went first to Alaska in the spring of 1872 in a subordinate position, being assistant to Capt. Bryant, who was then the Government agent on St. Paul, the largest of the fur-seal islands, where he, Mr. Elliott, married a native girl. Mr. Elliott remained on the island about a year, returning in 1873, without having seen anything of the rest of the immense territory except the little Aleut village on Unalaska Island, where he touched on his way up and down. After his arrival at Washington he published a work on the habits of the fur seals and made himself conspicuous by preferring charges against Capt. Bryant, who, by the way, had proved himself not very pliable in the hands of the Alaska Commercial Co., and consequently was anything but popular with them.

"Mr. Elliott's report is, just now, as the Alaska Commercial Co. desires, and might be mistaken for a statement written by a member of that company.

"The aim and purpose of such arguments are too transparent to need any comment, and although we have no doubt that it does not pay for Mr. Elliott to have any different views, yet we are surprised to find him so little shrewd as to come out with such undisguised and clumsy praise of the Alaska Commercial Co., which lets at once the cat out of the bag."

That was in a report which Gen. Howard made to the War Department on Alaska, in 1875.

Mr. ELLIOTT. He repudiated that himself; Gen. Howard said that he had been imposed upon.

Mr. McGUIRE. This is what Senator Morgan, of Alabama, had to say and I am quoting now from the records of the proceedings of the tribunal of arbitration, at Paris, volume 1, page 108:

I know Mr. Elliott, whom the British Government has dubbed "professor." I have respect for his character and sprightliness. He is a painter in water colors of no mean pretensions, but his use of color does not stop with his canvas. It enters into all he says, and makes him too vivid an enthusiast for a safe reliance on questions of measurements, statistics, and cold facts.

That comment arose over a question of measurements of sealskins, and that is taken from the record. Then I have also the statement made by Gouverneur Morris, a special Treasury agent in Alaska, in which Mr. Morris says, in a report to the Secretary of the Treasury, dated November 25, 1878:

The general reputation of Harper's Magazine heretofore borne for truth and veracity and the care with which its articles have been selected have given it a world-wide reputation; but any publication of the kind is likely to be taken in, and from the very high character enjoyed by the magazine it can not be denied that the article of Mr. Elliott has had a very damaging effect upon Alaska. It is written with a certain air of varisemblance, calculated to deceive the unwary and grossly impose upon the credulity of the reader. It is not so charged in express words that such was the intention of the writer. I prefer to ascribe it to gross and palpable ignorance rather than to intentional design.

So little is known about Alaska that whenever anything comes up in Congress relating to it information is sought wherever it can readily be found. The "informant" is ever on hand, with his work on fur seals comfortably tucked underneath his left arm, to impart all the knowledge extant about the country. "for he knows more about Alasaka than any man living."

A decade has passed since we acquired this Territory, and for a decade it has afforded employment and subsistence for its present sense keeper and it is about time this bubble was pricked and the bladder not quite so much inflated.

I am fully aware of all the consequences to be dreaded, the responsibility assumed, when rash enough to dispute the heretofore self-established authority from the Arctic Ocean to the Portland Canal.

This man seems to be the natural foe of Alaska, prosecuting and persecuting her with the brush, the pencil, and the pen of an expert whenever and wherever he can get an audience, and I attribute the present forlorn condition of the Territory to-day more to his ignorance and misrepresentation than to all other causes combined.

Gouverneur Morris, in another reference to Mr. Elliott in the report already referred to, says:

As for Mr. Elliott, I desire simply to say that he has not been in Alaska at all for a dozen years or more, and never spent a week of his whole life in the southeastern section, where more than nine-tenths of the white population is to be found. He has no interests whatever in Alaska; the "fox farm" of which he claims the ownership is a myth; his only interest in Alaska, according to his own statement before the House Committee on Territories last spring, is that of a paid lobbyist of the Alaska Commercial Co., in Washington, where he is invariably to be found at every succeeding session of Congress, ready to bob up and give wholly disinterested (?) information to the honorable Senators and

Members, whenever any measure designed to promote the settlement and development of Alaska or better the condition of her people is broached in either House.

The fact is, either Mr. Elliott entertains a mistaken idea of the duty he owes to his employers (the Alaska Commercial Co., by whom I am unwilling to believe him prompted in his persistent misrepresentations of Alaska and her people), or else he must be governed by a malicious hatred of the people of this Territory, among whom he is chiefly noted on account of the colossal impediment with which his veracity seems to be afflicted.

And then I desire also to refer the committee to the statement of Hon. E. J. Phelps, one of the counsel for the United States in the tribunal of arbitration of Paris, in which Mr. Phelps says:

There was a violent competition at Washington about the renewal of the lease, and the new company (the North American Commercial Co.) got it from the old, and Mr. Elliott's side was defeated, and then immediately after—that is to say, within two or three months—he made his appearance on the islands. Then what took place? For the first time he makes the discovery that the virility of the herd is being destroyed by the business of overdriving.

The discovery of Mr. Elliott was an attack on the administration of the new company that had got it. You see what it is: A violent rhetorical attack upon the business that the company was carrying on. If you read his field notes, they will be found to contain an ounce of observation to a pound of rhetoric. A scientific observer would make field notes out of doors and put them down as a basis for subsequent collation and analysis—as statistics; but his statistics are all rhetoric.

You will notice Mr. Phelps says “for the first time he makes the discovery that the virility of the herd is being destroyed by the business of overdriving.” That is after his company had paid him, I think he said, something like six or seven thousand dollars. He said that in his own testimony, and he previously said he had not received that.

Mr. ELLIOTT. I deny that.

Mr. MCGUIRE. Here are some contradictions.

Mr. STEPHENS. Could we not save a little time by making that report a part of this hearing without reading it?

Mr. MCGUIRE. I would like to read some of the contradictions, but, of course, if you do not care to hear them I will simply insert them as a part of this record.

Mr. STEPHENS. Of course, it is very interesting, and we want it before us, but I thought perhaps we might save a little time by simply inserting that in the record. However, I am willing that you shall read that, if you desire to do so.

Mr. MCGUIRE. There are only a page or two of the contradictions. It will only take a few minutes.

Mr. STEPHENS. All right; go ahead.

Mr. MCGUIRE. Here is a quotation from Mr. Elliott. It is found on page 16 of the report:

In 1872 I was selected as an agent of the Smithsonian Institution to proceed to the seal islands of Alaska and made an extended biological study of the life thereon. I was qualified—notice this—I was qualified for the work by 10 years' service at the Institution as a working naturalist and trained artist.

That is found in hearing 1, page 5.

Then here is another quotation from Mr. Elliott, found in hearing 4, page 205:

I was never in the employ of the Smithsonian Institution but for four months in my life, and then when I was a boy.

Mr. ELLIOTT. That is entirely correct.

Mr. McGUIRE. Then, in hearing 2 of the second series, on page 6, we find this from Mr. Elliott:

As an associate and collaborator of the Smithsonian Institution, I was asked by Prof. Henry and Prof. Baird, secretary and assistant secretary, to go to the Pribilof Islands in April, 1872, there to study the biology of the fur seal.

Here I quote again from the record of the testimony of Dr. Evermann, in hearing 10, on page 585:

I want to say he is not a collaborator nor an associate collaborator of the Smithsonian Institution, and the report of the Smithsonian Institution to-day shows that he is not.

Elliott has testified he was.

That is his testimony, that he is not in the employ of the Institution, whereas his testimony was that he was there.

Then here is a letter addressed to Mr. Elliott by Prof. S. P. Langley, Secretary of the Smithsonian Institution, found in hearing 7, page 314:

I have hesitated to speak to you about representations which are made to me that the fact of your having in the past occupied a room in the Institution, and that you are still addressed here under the supposition that you are yet an occupant of the building, together with the association of its name with yours in a correspondence, interviews, and Government documents, have given rise to misapprehensions.

Such remonstrances have been made to me, both from official and private sources, upon the alleged use of the Institution's name in connection with your own in regard to such debatable matters as the fur-seal fisheries that I feel obliged to speak to you about the matter.

Mr. ELLIOTT. Read the rest of the letter.

Mr. McGUIRE. Yes; I will be glad to read the rest of it.

I know your early connection with the Institution and your continued regard for it, and I am persuaded that you would be yourself the last person to wish to cause it trouble.

I have thought it best, therefore, in view of all this, to write you as I do, leaving future action to your good judgment.

Mr. ELLIOTT. If the subsequent letters were printed they would show that I did exactly what was right.

Mr. McGUIRE. There is a great deal of other matter in the report. I read from the report, for this reason—that it is all copied from these hearings. There can be no question as to the truthfulness of the report, because it is not the testimony of any particular witness, but it is copied from the hearings.

Mr. ELLIOTT. What does Gen. Howard say?

Mr. McGUIRE. These are the facts taken from this record and the record before the Ways and Means Committee.

Now, then, Mr. Chairman, recently I have received a number of letters from different Congressmen disclosing to me a letter to them by Mr. Elliott, franked from the Committee on Expenditures in the Department of Commerce and Labor, with his name signed to the letter, sent in a franked envelope.

Mr. ELLIOTT. Bring them in here.

Mr. McGUIRE. I will furnish them. I can furnish a dozen of them.

Mr. ELLIOTT. They are not franked.

Mr. McGUIRE. Scott Ferris has one. They were franked, and I have some of them in my office.

Mr. ELLIOTT. Bring them in.

Mr. McGUIRE. This thing has been going on in this way, and I confess that I do not feel that it is treating the Congress of the United States right to have these things going on, in committee or elsewhere, by a person who has been repudiated by practically everybody.

I will say this, Mr. Chairman, that when you read this report carefully—these minority views—I do not think the members of the committee can avoid reaching a conclusion that Mr. Elliott ought to be prosecuted for perjury. I have convicted, perhaps, 50 men for perjury, and I never had a better case than this one in my life, and I can say frankly that I thought as a matter of law and as a matter of right I ought to be able to do what little I could to prevent this party being allowed anything after he has been investigator and charger and report writer.

Gentlemen of the committee, suppose Mulhall had been given the keys to Mr. Underwood's room, or the keys to anybody else's room, and suppose he had been permitted to write a report, and suppose he had been sent to investigate his own charges, do you not suppose he would have found that somebody was wrong?

Here is a man very much more discredited than is Mulhall. I really think it is one of the most unfortunate things which has occurred in my experience since I have been in the American Congress. I think what I am doing is a duty I owe to the American Congress.

Now, then, as to Mr. Gallagher, I have absolutely nothing to say. He is a young man who is not presumed to know the law. He was called upon for this foreign service and lost his time. In a strict legal sense, I presume, Congress does not owe him money. But there is such a thing as a moral obligation, and it seems to me—I may not make any objection to Mr. Gallagher's account being paid; that is, some reasonable and proper amount.

Mr. STEPHENS. I am glad you mentioned that, because I intended to ask you in regard to that.

Mr. McGUIRE. Now, as to Mr. Cole, I do not know. If Mr. Cole has done work for which he has not been paid I should think he ought to be paid for it. I can not get anything out of the committee, because I can not get anything there that has not been touched by the accuser and the report writer and the investigator. We did not have any clerk to whom I could go without getting matter that was contaminated and doctored.

In that connection there is one place where Mr. Elliott showed unanimous action by the committee saying he should have pay. That is not true. I have always fought it, and Mr. Patten has always fought it, and I think when it comes on the floor of the House there will be some other gentlemen who will have something to say about it.

Mr. ELLIOTT. Somebody certainly will have something to say about it.

Mr. STEPHENS. You mean members of the committee?

Mr. McGUIRE. Yes; I think so. If they do not I shall be very much surprised, in view of what they have said to me. I know some of the things that have been said. I am waiting to see what these gentlemen will do. I take it that the gentlemen are square and honorable.

Gentlemen, I never could content myself to acquiesce in this matter, which I regard as the most unfortunate, in fact, the most outrageous thing that I have ever had anything to do with since I have been a Member of the American Congress. There ought to be an investigation here by a joint committee. With all due regard to the gentlemen who are friends of mine, I think they have let something slip by them. If there is a joint investigation, as we recommend here, a joint investigation by a Senate and House joint committee, my opinion is that there will be some prosecutions.

Mr. ELLIOTT. There certainly will be.

Mr. McGUIRE. As to the former recommendation of the Department of Justice, I have looked into that, and there will not be any prosecutions. The law is well known, and there is no action being taken. But I wish we had some action from the Department of Justice, so that we might see what they think about it.

As to Mr. Cole's claim, I know nothing about that. This did not come up in the course of the investigation. There was nothing said in regard to Mr. Cole's matter. Of course, if the committee thinks he ought to be paid I have nothing to say about that. I do not know anything about that.

Mr. STEPHENS. This resolution does not cover Mr. Cole's matter at all.

Mr. McGUIRE. Yes; I know it does not.

Mr. STEPHENS. It refers to Mr. Elliott and to Mr. Gallagher. Of course it is contended that Mr. Cole's claim is included in Mr. Elliott's claim, but that is a controverted matter. On the face of the resolution it does not have anything to do with that.

Mr. ROTHERMEL. I would like to ask Mr. McGuire a question.

Mr. STEPHENS. Certainly.

Mr. ROTHERMEL. I have two papers which I want to show Mr. McGuire, and I want him to look at these papers, and I want to ask him about them.

Mr. STEPHENS. All right.

Mr. ROTHERMEL (exhibiting paper). I want to know whether this paper is dated back six weeks. That is a memorandum I had drawn for Miss Kirby. I submit this memorandum in the hope that when Mr. McGuire finds that he is mistaken that he will withdraw the Cole letter from the record. Look at these two papers, Mr. McGuire. I drew up that receipt the week before she was entitled to that money, and it was written out on the typewriter, and I laid the cash down for her and she walked out without signing that paper. I would like to have Mr. McGuire read those papers [handing papers to Mr. McGuire].

Mr. McGUIRE (examining papers). Did you want me to read these into the record?

Mr. ROTHERMEL. No.

Mr. McGUIRE. The committee should know what these are, unless the members of the committee have looked at them.

Mr. STEPHENS. You might read them into the record.

Mr. McGUIRE (reading):

WASHINGTON, D. C., April 23, 1914.

Fifty dollars.

Received of J. H. Rothermel \$50, balance in full payment at the rate of \$50 a month, from August, 1913, to April 21, 1914.

Mr. ROTHERMEL. That is dated on the 23d of April.

Mr. McGUIRE. That is not signed.

Mr. ROTHERMEL. That is what I told her to write on the type-writer and sign and handed her the money, and she would not do it and left the money.

Mr. McGUIRE. The other one reads:

WASHINGTON, D. C., *January 30, 1915.*

Received of John H. Rothermel \$50 balance in full for services rendered to the said J. H. Rothermel from August 21, 1913, to April 21, 1914.

In this connection I will state that the said J. H. Rothermel offered me the said amount in cash on April 23, 1914, in his office and asked me to sign a receipt for the balance in full, which I declined.

M. KATHARINE KIRBY HUMMEL.

Attest.

J. T. WATKINS.

This is dated January 30, 1915. This is only a few days ago.

Mr. ROTHERMEL. She wrote me that she would like me to pay her now.

Mr. McGUIRE. It has been running all this time without being paid?

Mr. ROTHERMEL. I did not know where she was.

Mr. McGUIRE. Did you not make a statement on the floor of the House that all this had been paid?

Mr. ROTHERMEL. No; not the last month. That was not due.

Mr. McGUIRE. She did not work for you any after that.

Mr. ROTHERMEL. She came to my office.

Mr. McGUIRE. But you made a statement on the floor of the House that you had paid Miss Kirby in full.

Mr. ROTHERMEL. I had paid up all that was due.\*

Mr. McGUIRE. She never worked for you afterwards, and why was not this due?

Mr. ROTHERMEL. It was not due until the 1st of the month. I advanced this on the 23d, and now Cole has handed you a letter saying that I wanted her to date the receipt back six weeks.

Mr. McGUIRE. I am rather of the opinion that you are mistaken about the money not being due, because she had not worked for you for some time prior to the time when you made a statement in February.

Mr. ROTHERMEL. Whenever the check came she was to be paid out of the check. That is what I have stated on the floor of the House.

Mr. McGUIRE. Well, the record will show. If I am mistaken about that the record will show what is the fact. This paper reads:

WASHINGTON, D. C., *January 30, 1915.*

Received of John H. Rothermel \$50 balance in full for services rendered to the said J. H. Rothermel from August 21, 1913, to April 21, 1914.

In this connection I will state that the said J. H. Rothermel offered me the said amount in cash on April 23, 1914, in his office and asked me to sign a receipt for the balance in full, which I declined.

M. KATHARINE KIRBY HUMMEL.

Attest.

J. T. WATKINS.

In that connection I have the letter which I mentioned awhile ago, which, with the consent of the committee, I would like to put into the record and which will throw some light on this.

Mr. ROTHERMEL. I am going to ask Mr. McGuire to withdraw that Cole letter which he submitted here in proof of the facts that he has

stated, and in regard to that matter both Miss Kirby as well as I myself can specify to that.

Mr. MCGUIRE. As to whether the Cole letter becomes a part of the record, that is for the committee to decide, but I will say this, that I will put the Cole letters and everything else I have in connection with this matter in the Congressional Record, in case it gets to the floor of the House, and all those things can speak for themselves.

Unless there are some questions which the members of the committee would like to ask me, that is all I have to say, gentlemen.

Mr. ELLIOTT. Mr. Chairman, may I make a brief statement at this time?

Mr. STEPHENS. Yes; provided you do not take too much time.

#### STATEMENT OF MR. HENRY W. ELLIOTT.

Mr. ELLIOTT. Mr. Chairman, I want to say a few words in regard to some of the things which Mr. McGuire has said. I want to say that he has not stated this thing truthfully. He stated here that I had denied being in the employ of the Smithsonian Institution and then he subsequently brought in the "proofs" that I had been. I volunteered a statement that I had been in the employ of the Smithsonian Institution at one of the first hearings; I think it was in July, 1911, but only for a few months; and that I had, as an associate and collaborator, occupied a room there and had done work there as an artist and a naturalist by contract.

Mr. SCOTT. When was that?

Mr. ELLIOTT. That was from 1862 or 1863 until 1890. For 25 years I occupied the room in that Smithsonian Building as an "associate and collaborator"; and I will bring in for you and lay before you a monograph on the seal islands, in which Prof. Baird, the secretary of the Institution, nominates me as an associate collaborator, and states that he has sent me to the seal islands for that purpose. This is my "Monograph," submitted to the Tenth Census, United States of America, and printed in Volume VIII by the authority of Prof. Baird in regard to that. I could not have been in the employ of the Smithsonian Institution and at the same time have been given a relation to it of that kind. I was an independent "associate and collaborator." For 25 years I occupied a room there in the north front between Prof. Theo. N. Gill, on the west side, and Dr. Elliott Coues, on the east side, and I did an immense amount of work there as an artist and naturalist for Government bureaus and different scientific societies; doing that work by contract, making anywhere from \$2,500 a year, even in the beginning when I was a mere boy, and some years I made as much as \$10,000 in five months. Do you suppose I would be a mere clerk there, drawing a measly salary, if I had such an opportunity to make more money and live better? Was that not natural?

Then later I became an associate and collaborator, "to whom the institution returns its grateful acknowledgment" for collections large and valuable, and I have the letters I received in connection with that. And then because somebody tricked my good friend Walcott, and my good friend, the late Dr. Langley, into believing these lying statements such as those of Mr. McGuire, they wrote me those letters he quotes in my absence; then when I explained the matter



to them, they said, substantially: "You come back here; we are sorry this has been done."

Then there is another point here. He has "quoted from the records," he says. He says he has quoted from the report of Gen. Howard. Gen. Howard has made no such record about me. In Gen. Howard's report—in the "appendix" to Gen. Howard's report—among the miscellaneous letters and documents therein assembled, is a so-called "appeal," published by a so-called "civic association" of San Francisco. No such association ever existed, and Gen. Howard was imposed upon. The man who wrote it was a defrocked Greek priest, a scoundrel. That villian's words abusing me as a blackmailer have been put into Gen. Howard's mouth as an indictment of me. Gen. Howard repudiated the thing. A letter was written by him to Prof. Henry, saying that he was sorry that such a thing had gotten in there. That is a sample of these McGuire "records." He says I am "quoting testimony of my own," etc. All through the sworn record here I quoted nothing but that testimony of his own guilty people. I do not use my own words; I do not use my own finding. I use their own, and then I confront them with their lying denials, or contradiction of it. Nowhere do I bring in my own statement; nowhere do I use my own individuality. I quote their lying statements to Congress to deceive committees, and then bring in the official record of their own making, which contradicts them; their own official words, which convict them. That is what I have been doing. Of course, I have been very much abused. I expect that.

He says he "would prosecute me for perjury." He would not dare do it! He can not bring in a single thing that anybody, if even a knave, would base an indictment for perjury on. He brings in a lot of scurrilous language and indecent statements. Look at the records and see what they brought in about me—these lying and false statements, such as he has just spewed out.

Then he brings in a letter from Mr. Cole, putting words in my mouth. I heard Dr. Cole admit under oath, December 15 last, that he was a thief, when being examined before the Committee on Accounts. He puts the word of a thief against my word! And that is considered "dignified" by this minority member of the Committee on Expenditures in the Department of Commerce!

I want him to bring it on the floor of the House. I have friends there who will gladly take up my end of the case on the floor of the House and present the facts. I am a good Republican! I am not a "greasy" one; and, when I was beaten in a Democratic House, I went to my Republican friends in the Senate and then we beat you over there. We beat the combination of "greasy Democrats" and "greasy Republicans." But the good Democrats stood with me over there and in the House. We won the fight and you were whipped.

He says that the Ways and Means Committee made an investigation. They never have made an investigation. They never have acted on the charges. They heard a few statements made by people who came before them January 14-28, 1907, and they never took those charges up in committee.

The first time it was ever taken up was by order of the Ways and Means Committee May 11, 1911. I was taken to the Committee on

Expenditures in the Department of Commerce and Labor and set to work there by the Ways and Means Committee, and in this way this investigation was taken up first by order of the Ways and Means Committee, and this business was set on foot.

I have not been "discredited" by any committee of either House. The record of the Ways and Means Committee, which I have here, is one that any man can be proud of. I have been through that committee with three bills; and those three bills have been passed through the House, following my recommendation before the committee.

The only setback I ever got was in the Committee on Foreign Affairs, when Sulzer was chairman. There is no politics in this thing at all. We will have—

Mr. STEPHENS. We will have to conclude in a few moments, Mr. Elliott.

Mr. ELLIOTT. I am through.

Mr. ROTHERMEL. Mr. Chairman, I would like to make a short statement in regard to this matter.

Mr. STEPHENS. We will take a recess now until half past 2 o'clock this afternoon.

(Thereupon, at 1.15 o'clock, the committee took a recess until 2.30 o'clock p. m.)

#### AFTER RECESS.

Mr. STEPHENS. Do you wish to make a statement now, Mr. Rothermel?

Mr. ROTHERMEL. If Mr. Cole is to make a statement I prefer to wait until he finishes.

Mr. STEPHENS. Very well. We will hear from you now, Mr. Cole.

#### TESTIMONY OF MR. CHARLES L. COLE.

(The witness was duly sworn by Mr. Stephens.)

Mr. STEPHENS. Mr. Cole, where do you live?

Mr. COLE. In Allentown, Pa.

Mr. STEPHENS. That is Mr. Rothermel's home town?

Mr. COLE. No, sir; 36 miles away, but in the same district.

Mr. STEPHENS. Were you ever employed by Mr. Rothermel since he has been a Member of Congress and chairman of this Committee on Expenditures in the Department of Commerce?

Mr. COLE. Yes, sir.

Mr. STEPHENS. When did you enter that employ?

Mr. COLE. On or about the 23d day of April, 1914.

Mr. STEPHENS. What was your contract with Mr. Rothermel with reference to your salary?

Mr. COLE. That I was to be paid \$12 a week for personal work, and then I was to do the committee work, for which an allowance of \$125 a month was paid by the Government.

Mr. STEPHENS. Were you to receive the \$125 in addition to the \$12 a week for personal services?

Mr. COLE. Yes, sir; I was.

Mr. STEPHENS. Did you receive this salary of \$125 a month?

Mr. COLE. No, sir.

Mr. STEPHENS. What money did you actually receive?

Mr. COLE. About six weeks after I entered his employ—Mr. Rothermel was home very busy during the campaign—which was in May or in the beginning of June, when he came back, I asked for some money and he gave me a \$25 check on the National Capital Bank, and I told him that was not all he owed me, and he said he was a little short but he would make it up. Then I asked him about the clerk's money, and he told me, "Joe is sick, and I don't like to take him off the roll."

Mr. STEPHENS. To whom do you refer when you refer to "Joe"?

Mr. COLE. J. M. Baker, who was carried on the roll as clerk of the committee—that he had to introduce a resolution to pay for the services of Mr. Elliott and Mr. Gallagher, and he would include me in there for as many months as I was with him until Joe came back, leaving me under the impression that Joe was sick and would come back. I did not say anything further about it, and the matter drifted on until we came to—in fact, I told Mr. Gallagher, the first one I told about it, and Mr. Gallagher said it didn't look very good to him; and later on I told Mr. Elliott, and, if I remember the right words, Mr. Elliott says, "The old fool. Does he want to get himself in a worse mess than he did in the Kirby affair? You can't be included in there." I said, "I don't want to work for nothing." He said, "It will never go." Later on—I don't know whether Mr. Elliott spoke to Mr. Rothermel about the matter or not—but, at any rate, he said he would take care of me.

Mr. STEPHENS. Who said that?

Mr. COLE. Mr. Elliott—that I was not to appear because, he said, "That will knock the whole matter out." We had lots of talk about it, almost every day, on the matter.

Mr. STEPHENS. How long did you serve that committee as clerk?

Mr. COLE. From that time on until about the middle of October.

Mr. STEPHENS. About how many months?

Mr. COLE. Seven months; maybe not quite seven months.

Mr. STEPHENS. Did you receive any money except the \$50 referred to?

Mr. COLE. I received all told from Mr. Rothermel \$175. On June 3, that is the \$25 dollars I had reference to; June 16, \$15; July 3, \$35; August 1, \$50; August 28, \$10; and September 2, \$40.

Mr. STEPHENS. How much is due you now for your services?

Mr. COLE. I claim the clerkship of the committee for which I was not paid.

Mr. STEPHENS. What would that amount be?

Mr. COLE. That would be seven months at \$125 or \$875. I might add there, Mr. Stephens, that maybe I was there about two months when Mr. Rothermel gave me a receipt signed by Joe Baker on the disbursing clerk of the House to get his check for \$125. I went over and got that check. Then Mr. Rothermel says, "You indorse this check as acting clerk." I indorsed it "J. M. Baker," by my initials. Then Mr. Rothermel indorsed his name right under there, "John H. Rothermel, chairman," and I went over to the sergeant-at-arms and got the money for that and handed it to Mr. Rothermel. That is all I know about it. What he did with it I do not

know. If I rightly remember, once he paid me \$40 out of that money. Once or twice he paid me out of his regular secretary's check, and then several other times he paid me the money he got out of his pocket—where from, I do not know, of course. Along in September Mr. Gallagher, who is from my own town—we had been talking of going home and spending a week at the fair, and I was short of funds, and I asked Mr. Rothermel for some money, and he said he would give me some before I had to go. He had been away from the office three or four days or a week, and when the time came to go the following week he was at the hotel sick, and I left on Saturday to go home after I had found out he had gotten 10 days' leave of absence. You remember the docking rule was in effect at that time in the House, and I think I had a dollar and some cents in my pocket, and as I had been accustomed to going over there and getting that check every month, as I told you, I went over there and asked Mr. South whether I could get the September check, and he stated if it would not be cashed before the end of the month, I could. So he gave me that check for \$125. I indorsed that check "J. M. Baker," per my initials, and then signed on it "Charles L. Cole, clerk," and I got that check cashed through a friend of mine at home, with the understanding that he would hold it until the end of the month, so as to not get in the Treasury before that. That money I got also. I got it because I didn't have a penny, and I had to have the money. In the meantime I had come across this correspondence which showed Baker was carried as clerk of the committee from December, 1913, because of holding notes against Mr. Rothermel.

Mr. STEPHENS. So in addition to the \$175 which Mr. Rothermel paid you, you have received \$125?

Mr. COLE. That one check; yes, sir. That would make \$300 all told that I had got.

Mr. STEPHENS. Do you claim that \$175 is for the personal work covered by that \$12 per week you received?

Mr. COLE. Yes, sir.

Mr. STEPHENS. Then you have received \$125 on your clerk's salary?

Mr. COLE. Yes, sir. I should have received, according to contract, \$350 for personal services for seven months plus the other, and I figure that, of course, he gave me \$300 all told.

Mr. STEPHENS. Who else worked in that committee room besides yourself?

Mr. COLE. Nobody but Mr. Elliott and the chairman, Mr. Rothermel.

Mr. STEPHENS. There was no other employee there?

Mr. COLE. No, sir.

Mr. STEPHENS. Except yourself?

Mr. COLE. No, sir; nobody did a bit of the work from the time I entered until I left.

Mr. STEPHENS. Was Mr. Baker there at any time?

Mr. COLE. I saw him there one day in June or July. He had come on from Ohio. He was there one day and went out once or twice with Mr. Rothermel.

Mr. STEPHENS. Where was Mr. Baker during all this time?

Mr. COLE. In Ohio.

Mr. STEPHENS. Is there any further statement you want to make?

Mr. COLE. As I said, I left Mr. Rothermel after he came back in October; I don't know what day it was; maybe the middle or maybe the early part; and he wanted me to go over and get this check then, and I told him what I had done—that I had got it already, because I had no money—and he got furious about it. He told me it didn't belong to me, and I said he knew it didn't belong to Mr. Baker, and I was doing the work, and he said, "That makes no difference," and then we had some other words and I went out of his office and left him. Then this matter was before Mr. Lloyd's committee. I had gone over with Mr. Rothermel and Mr. Elliott several times to get books and documents and papers, and Mr. Lloyd finally, one day, after I had been sent over several times to inquire the progress of it, I met Mr. Lloyd on the street car, and Mr. Lloyd asked about this matter, and he said, "We will not do anything until we get more of the Kirby matter; we want to know more about this Kirby matter." Mr. Elliott came in, and Mr. Gallagher was present at the time, and instructed me to remain away from the Committee on Accounts. He had found out they were questioning me and wanted some information. Mr. Lloyd had asked me, and I told him I didn't know whether I ought to make any statements; that I wanted to get some advice before I did that. He said, "You get all the advice you want, but we will get at the bottom of this matter."

I spoke to several Members of Congress and told them the exact situation, and they advised me to tell the truth, and if I had anything to prove it by to show it. I told Mr. Lloyd then what I knew. Then Mr. Lloyd inquired whether I saw letters—actual letters—from Baker to Mr. Rothermel which proved that Baker was being carried on the roll as clerk because he held notes against Mr. Rothermel. I told him I did; that I run across them accidentally in the office; I found one in my desk, and the other two I found in the drawer of the table. He said, "You hold those letters, because I am going to call you and question you under oath, and I want the proof." I took them over and showed them to Mr. Lloyd, and he read them and advised me to keep them and not to part with them. I went home then, and my father received a letter from Mr. Rothermel in which he stated that he had discharged me for irregularities and a series of matters, and that I would be prosecuted under the State laws, and that he hated to tell my father this, but being that he knew my father and my father's brother so well, he felt he ought to do it. This was five weeks after this transpired. Then he tried to make me trouble up home indirectly with my family, because I couldn't give more than a nominal support as I should have, because I didn't get my money to do it with, and that didn't work. Then he went to the Department of Justice and charged information against me that I was taking valuable papers—that I had taken valuable Government papers from his office.

They sent a detective to see me, and I made a statement. The next day the chief asked whether I would come up and bring the papers. I went up with the three letters I had, and they took photographic copies of those letters and advised me to keep them until this matter was all thrashed out by Congress and then turn them over to them. Since that they have tried on two different occasions to have me arrested under hoaxed charges, connected with the same matter.

Mr. Rothermel has tried his best to prevent me getting work wherever he could, simply because I told what I knew in this matter. I have since turned the letters over to the Department of Justice, as per their instructions, photographic copies of which I have here and which I would like to submit to the committee, and which will prove beyond a doubt why Baker was carried on the rolls. He never did a stitch of work during Miss Kirby's time, so she told me. I know he has not in my time. I have the letters here, and if you care to have them read, I will read them.

Mr. STEPHENS. We will not take time to read them now: just leave them with us.

Mr. COLE. All right. This resolution, Mr. Stephens, which was introduced on August 7, House resolution 587, called for a lump sum of \$9,500. This was written up—I wrote this up myself—and Mr. Rothermel signed it, and I took it on the floor of the House. That was to be \$3,500 for Mr. Gallagher and \$5,000 for Mr. Elliott, and my amount of \$875 was in there. It was agreed, though, on that day that Mr. Elliott made the statement and said, "There will be no clerk matter in this; I will take care of Charlie." Mr. Rothermel said, "I have also two ladies, two stenographers, who must be paid out of this," and he hinted as much as if Mr. Elliott was going to take care of me this way and that Mr. Gallagher should take care of these ladies and pay them. In other words, so nobody else would be shown up in this deal to bring the truth out. Of course, the investigation that is on was made by the Committee on Accounts, and why they didn't act, I don't know, but I am sure if you will speak with Mr. Lloyd in his committee, they will be able to enlighten you a lot on what they found, not only in the testimony, but what they got from several departments in reference to this matter.

I am only asking for what I worked for all through last summer. Mr. Elliott says I did personal work for him. I ask him to prove to this committee or bring in here any letter or any statement that I wrote for him that had any bearing of a personal nature to him. I want to see that.

Mr. McGuire read a letter here this morning in which I stated to Mr. Elliott that I drew up letters to different departments in the matter and Mr. Rothermel merely signed them. I have here a letter of August 10, to Mr. Lloyd, chairman of the Committee on Accounts, which Mr. Elliott wrote out in longhand and which I copied on the typewriter as it is here, and which Mr. Rothermel merely signed and I delivered. Elliott wrote out letters to the Attorney General and to the Department of Justice, trying to bring this suit to a head when Congress did not act in the matter, and Mr. Rothermel merely signed his name to them. I want to present this letter merely to show that the statement I made to Mr. McGuire is true. There are some changes in this letter which have been made by Mr. Elliott's own handwriting that he can not dispute.

Mr. STEPHENS. By Mr. Elliott?

Mr. COLE. Yes, sir.

Mr. ELLIOTT. That is not a committee letter.

Mr. COLE. He erased and wrote it in himself with pen and ink, to show that he went over the letter there and saw it was all right, and Mr. Rothermel signed it as chairman of the committee. I would like to hand that in.

Mr. STEPHENS. Very well; you may file that.

Mr. ELLIOTT. That is not a committee letter. The committee letter follows that on October 7, 1914, and was drawn by the committee in Mr. Stephens's room before I ever saw it. That letter of Mr. Rothermel, August, was followed by the committee letter, which I have shown you. We may as well have that cleared up now. There is no use having that drifting along. That is not signed by anybody except Mr. Rothermel, and it is really a personal letter. Here [indicating] is the committee letter which was drawn up by Mr. Stephens in his office, and I never saw it. It was circulated and signed before I saw it.

Mr. STEPHENS. When was this first resolution filed, providing for compensation?

Mr. ELLIOTT. August 7.

Mr. COLE. The date of the letter, Mr. Stephens, resolution No. 587, was filed August 7.

Mr. STEPHENS. The letter which you present and which was signed by Mr. Rothermel is dated August 10, 1914, and begins by saying:

DEAR MR. CHAIRMAN AND GENTLEMEN: I am sending you herewith, for the kind consideration of you and the committee, House resolution No. 587, calling for the sum of \$9,500 to be paid out of the contingent fund of the House for expert services rendered the committee, etc.

Mr. ELLIOTT. That was prepared by Mr. Rothermel or Mr. Cole. I never saw that. Parts of that are mine, and I prepared it because they explain my direct work. Mr. Rothermel asked me to do that; but the introduction is Mr. Rothermel's or Cole's own work. I remember that.

Mr. STEPHENS. The letter Mr. Elliott presents is signed by four members of the committee and refers to the same matter.

Mr. ELLIOTT. That is the committee letter.

Mr. STEPHENS. But it is dated October 7.

Mr. ELLIOTT. That is the committee action.

Mr. STEPHENS. This letter is not signed by Mr. Watkins.

Mr. WATKINS. At that date I happened not to be in the city, Mr. Chairman. I do not suppose my name is signed there.

Mr. STEPHENS. No; it is noted:

Mr. John T. Watkins was absent from the city, but since then has said that above is in exact accord with his views.

Mr. WATKINS. I do not know what it is now, but if it could be read I could tell.

Mr. STEPHENS. You may see the letter, Mr. Watkins, if you wish. Have you anything further to state, Mr. Cole?

Mr. COLE. I want to state that shortly after I started to work there I wrote a letter to every member of the committee, stating that I had been appointed the clerk, that if they wanted any information or any paper, or anything in reference to any matter, I would be glad to be at their service if they would command me. I wrote every member of the committee. I also acted at one meeting we had there in my capacity as clerk. That is when Mr. McGuire stopped me in the Hall of the House and gave me the minority report and told me to hand it in as clerk of the committee, which I did. The chairman then sent it back, claiming they had no authority, but several nights later we had a meeting in which Mr. Watkins, Mr. Abercrombie, Mr.

Rothermel, and Mr. Elliott were present, and we went over the minority bill. I read the report, and stopped when I was told to stop, and they discussed it, and I think every member of the committee knows I was there and knows I did the work; and I was not paid for it or I would not ask for it. There is no doubt there is proof right there that this man that has been receiving the money—for awhile toward the last, of course, he had not been receiving it—had no more right to it than anybody had. I am only asking for what is fair and just. If this matter had not got into the Committee on Accounts through the Kirby matter, I do not suppose it would have come up, but I was advised to state what I knew, and that is what I did, and for that reason they have been persecuting me ever since in every imaginable way.

Mr. STEPHENS. Do you want to ask any questions, Mr. Rothermel?

Mr. ROTHERMEL. Yes, Mr. Chairman.

Mr. STEPHENS. Proceed, then.

Mr. ROTHERMEL. You came to the committee room and sat there nearly every morning, when you were not wanted around there. Is not that true?

Mr. COLE. I came there before I started to work; I came there to look at the home papers. You never told me I was not wanted.

Mr. ROTHERMEL. Didn't I tell you to go home to your family; that your wife had given birth to a baby in the hospital?

Mr. COLE. No, sir; you did not tell me anything of the kind.

Mr. ROTHERMEL. Didn't I tell you if you did not go I would oppose you getting any position in Washington if you did not go?

Mr. COLE. You told me, prior to Christmas time—a few days before Christmas—that nothing could be done until after the holidays and that I should go home. I went home, too.

Mr. ROTHERMEL. You said you would go on Monday.

Mr. COLE. And I went on Monday.

Mr. ROTHERMEL. I did that because your wife had two children and you paid no attention to them, and I told you so.

Mr. COLE. You did not tell me anything of the kind.

Mr. ROTHERMEL. Didn't I ask you to go home?

Mr. COLE. Because you could not do anything for me until after the holidays.

Mr. ROTHERMEL. You came in there and were about there every day, when I had no use for you.

Mr. COLE. You never said that. You told me to come in any time, and I came around occasionally to look at the home papers; yes, sir.

Mr. ROTHERMEL. Does not Mr. Elliott know that you sat there at the end of the table every morning when I came in?

Mr. COLE. I do not dispute that. I was not there every morning, but I came in frequently to look at the home papers.

Mr. ROTHERMEL. Did you look at my papers when you had nothing to do with them?

Mr. COLE. At your newspapers from home: yes, sir—and read them.

Mr. ROTHERMEL. Did you look at any other papers?

Mr. COLE. No, sir; I did not look at anything.

Mr. ROTHERMEL. Scouting around there all the time?

Mr. COLE. No, sir.

Mr. SCOTT. What time was this?



Mr. COLE. This was in December.

Mr. STEPHENS. This was before you employed him, Mr. Rothermel?

Mr. COLE. Yes, it was.

Mr. ROTHERMEL. Finally, I told you that Miss Kirby had made complaint about you being on the telephone and telephoning to women all the time when I was not there.

Mr. COLE. And when you made that complaint, I called Miss Kirby in and she denied it.

Mr. ROTHERMEL. Miss Kirby stated it and told you that.

Mr. COLE. But she denied it.

Mr. ROTHERMEL. Are you sure? You are under oath.

Mr. COLE. I am sure she denied it. You called her out and she refused to say anything.

Mr. ROTHERMEL. Ah! She refused to say anything?

Mr. COLE. She denied it. She said, "I don't know that he spoke to any girls on the telephone."

Mr. ROTHERMEL. Is it true that your wife lives in Allentown and has two children over there?

Mr. COLE. Mr. Chairman, I don't see that that has any bearing. Why should he bring my family affairs into this matter? He has been doing it right along.

Mr. ROTHERMEL. One moment. I have some correspondence here that will throw some light upon that.

Mr. STEPHENS. Just a moment, Mr. Rothermel. We have taken a rather wide range in this matter to-day and touched on a good many matters that are really not relevant. I do not see how this is pertinent at all, this reference to his family and how many children he has and whether he deserted them or not.

Mr. ROTHERMEL. He said he needed the money for his family, and he brought the family in.

Mr. STEPHENS. I understand, but I do not see that that would throw any light on this transaction at all. So far as I am concerned, I do not think it is permissible or proper to go into it. Do you agree with that or not, Mr. Scott?

Mr. SCOTT. I think that is correct, Mr. Chairman.

Mr. STEPHENS. Then we will leave the family affair out of this.

Mr. ROTHERMEL. I have to bring it in in connection with that check he took and concealed, and he said he needed that for his family, and here is his wife's letter that she hadn't received a cent from him.

Mr. STEPHENS. That would not be competent evidence in any view of the case.

Mr. ROTHERMEL. He told me, and I am going to ask him, that when he had kept the October check, he went to the office and got it in the beginning of September and concealed it from everybody until it was cashed in October. Then I said, "What right have you to do this?" He said he needed money for his family.

Mr. COLE. I did not conceal it from anybody. I went over to Mr. South and I asked him about it, and I told Mr. Gallagher the same day I got the check, and he will back me up in that.

Mr. ROTHERMEL. Did you tell me?

Mr. COLE. You were not here to be told.

Mr. ROTHERMEL. I was here.

Mr. COLE. You were not. If I wanted to I could tell the committee why you were not here, but I do not like to go into personal affairs of yours, like you did into mine.

Mr. ROTHERMEL. I was away in September, and you did not tell me, and when I told you to go and get the check on the 2d of October, you concealed it, and then next day you came in and told me.

Mr. COLE. I told you when you came back to Washington.

Mr. ROTHERMEL. I asked you on the 2d or 3d of October whether you had drawn the check as you always did, and you did not tell me, and I asked you to go and do it, and you did not even tell me then, but next day you came and told me.

Mr. COLE. I do not know whether it was that day or the next day that I told you, but I told you what I had done.

Mr. ROTHERMEL. You told me then you needed it for your family.

Mr. COLE. I said I needed it because you had not paid me any money, and I could not live on nothing.

Mr. ROTHERMEL. Here is your wife's letter, in which she says you had not paid her a cent.

Mr. COLE. But I had paid her some money. I could not pay what I ought to have paid her, but I would have paid her if you had acted honest in your transactions and given me the money I worked for, and my family would not have suffered then.

Mr. ROTHERMEL. You came to the office and asked me for work.

Mr. COLE. You sent for me.

Mr. ROTHERMEL. After Miss Kirby went out.

Mr. COLE. You sent for me to fetch you the \$50 to pay Miss Kirby, and she refused to sign that paper.

Mr. ROTHERMEL. I am not talking about that. I had a distinct contract with you that you were to work for me for \$50 a month.

Mr. COLE. Twelve dollars a week for personal services, and I was to do the committee work, which I was to be paid for at the higher rate.

Mr. ROTHERMEL. Don't you know I never mentioned that?

Mr. COLE. I know you did mention it. Do you think if I have a wife and two children I could support them there and me here on \$12 a week? You brought my family in and I will bring it in now, too.

Mr. STEPHENS. No; leave out the family.

Mr. COLE. But he brought it in, Mr. Chairman.

Mr. ROTHERMEL. You had a distinct understanding with me for \$50 a month, or \$12.50 a week.

Mr. COLE. Twelve dollars a week for the personal work.

Mr. ROTHERMEL. And I arranged with you told you when Baker would come back you would not be there at all, and that I would divide the checks between you and Baker.

Mr. COLE. Why should Baker have anything?

Mr. ROTHERMEL. Answer the question.

Mr. COLE. You did not tell me you have been paying Mr. Baker because he was sick then.

Mr. ROTHERMEL. Then you got the \$50 a month.

Mr. COLE. No; I did not get my \$50 a month.

Mr. ROTHERMEL. Did not you go and draw the checks and take your money out of it?

Mr. COLE. No; I brought the money back to you.

Mr. ROTHERMEL. Did not you draw your \$50 every time you had the money in your possession?

Mr. COLE. No, sir; because I gave you the full \$125, and you paid me yourself, twice at least, by check. Once you paid me out of your secretary check and once you gave me a check on the National Capital Bank, and twice you gave me cash out of your own pocket.

Mr. ROTHERMEL. When you had the money in your possession and had \$50 coming to you, why didn't you keep it?

Mr. COLE. When I did keep it one month you were going to put me in jail for keeping my own money. That is what you tried to do.

Mr. ROTHERMEL. We never talked about that.

Mr. COLE. When I kept that one month's check you did not? You tried to hold it up at the treasurer's office and tried to have me arrested.

Mr. ROTHERMEL. And when you took the \$125 you should have gone to jail, too.

Mr. COLE. Because I took what belonged to me?

Mr. ROTHERMEL. The Pennsylvania laws will take care of that.

Mr. COLE. All right; we will see about the Pennsylvania laws.

Mr. ROTHERMEL. Did you sign my name to a document to buy clothing in Washington?

Mr. COLE. No, sir.

Mr. ROTHERMEL. Did you use my stamp?

Mr. COLE. No, sir.

Mr. ROTHERMEL. Did you leave a paper there that you stamped my name to as chairman of the committee, to purchase goods at Saks & Co.?

Mr. COLE. No, sir. I got an order from you for \$10 or \$12 to buy goods from Saks & Co., which I wrote out on the typewriter and to which you signed your name, and if you will get your original letter from the firm it will show plainly it is your own signature which you gave me.

Mr. ROTHERMEL. Did you sign my name with the stamp?

Mr. COLE. No, sir.

Mr. ROTHERMEL. And state, "To whom it may concern," that I recommended that they should deal with you?

Mr. COLE. No, sir.

Mr. ROTHERMEL. I have the letter.

Mr. COLE. Then produce the letter.

Mr. ROTHERMEL. That is what I will. That is another thing that happened in my office.

(Mr. Rothermel handed a paper to Mr. Stephens.)

Mr. ROTHERMEL. Did you send these scurrilous letters through the mail under Congressman Lewis's frank? Is that [indicating] Mr. Lewis's frank?

Mr. COLE. Did I send girls letters?

Mr. ROTHERMEL. Scurrilous, libelous, blackmailing letters?

Mr. COLE. If I signed them I can identify them.

Mr. ROTHERMEL. Is that right [showing a paper to the witness]? Don't take it; you can see it without taking it in your hands. I don't trust you.

Mr. COLE. Then I don't want to see it. If I can look at it right, I will answer it, but not when you hold it up. You can not bulldoze me like that.

Mr. ROTHERMEL (showing the witness another paper). Is this your signature?

Mr. COLE. Yes, sir; I think it is.

Mr. ROTHERMEL. And here is Lewis's name. Did you have authority from Lewis to use his franks to send your own documents?

Mr. COLE. That has nothing to do with this matter.

Mr. ROTHERMEL. Did you have authority from Lewis?

Mr. COLE. I refuse to answer, because it has nothing to do with this matter.

Mr. ROTHERMEL. Mr. Chairman, he will have to answer that.

Mr. STEPHENS. State your question again.

Mr. ROTHERMEL. Did you have authority from Fred E. Lewis, Congressman, to use his frank for your personal matters?

Mr. COLE. I never used his frank for personal matters.

Mr. ROTHERMEL. Did you have authority from him?

Mr. COLE. I used his stationery right along, and I used his envelopes right along, and he knew I did. I had been around in his office right along. I had been sending his mail—coming down and sending some mail to him.

Mr. ROTHERMEL. I have a letter from him that you had no authority to do it.

Mr. COLE. I used his letterheads right along, and he never objected.

Mr. ROTHERMEL. Will you say you had authority to use his franks?

Mr. COLE. I do not know whether he ever told me to use his envelopes or not, but he knew I did. I was doing work for him and when I wrote him letters I used his envelopes.

Mr. ROTHERMEL. If he says you had no authority, will you still swear?

Mr. COLE. He never told me I had no authority. I know if he let me be in his office and gave me a key to his office to send him his mail, he would not object to me using his letterheads to write letters on.

Mr. ROTHERMEL. Let me read this to you:

[Fred E. Lewis, Pennsylvania.]

HOUSE OF REPRESENTATIVES,  
Washington, D. C., February 3, 1915.

HON. JOHN H. ROTHERMEL,

*House of Representatives, Washington, D. C.*

MY DEAR COLLEAGUE: Your letter informing me that Charles L. Cole has been sending mail matter out under my frank has come to me as a surprise, as he is not in my employ nor has he any right to use any of my stationery.

Some months ago, at the time you and Cole had a misunderstanding, he asked me for the privilege of having his mail directed in the care of my office. As a constituent of mine, I felt that it was his privilege to ask this favor and granted it. Mr. Cole is not in my office, as you state, merely going there at the time mail is delivered to obtain his mail and place mine in a large envelope preparatory to forwarding to me when I am at home. Mr. Cole offered to perform this service for the privilege of receiving his mail at my office. He is not an occupant of my office and has no key, to my knowledge, nor have I ever authorized any person to give him a key.

I am glad you called my attention to this matter, as I do not in any way want to get mixed up in the matter or matters in which you and Cole are contending, as you are both friends of mine and it is the order of the day, in minor and greater wars, to remain neutral.

Very truly, yours,

FRED E. LEWIS.

Mr. STEPHENS. What is the date of that letter?

Mr. ROTHERMEL. February 23. I wrote to him.

Do you say you had authority to use his franks?

Mr. COLE. I have been in there right along.

Mr. ROTHERMEL. Do you say you had authority from him to use his franks?

Mr. COLE. He never told me that I did not have.

Mr. ROTHERMEL. Did he tell you to use them?

Mr. COLE. He saw me writing there right along. I made my reports in there on this matter right along.

Mr. ROTHERMEL. That is a direct question which can be answered yes or no.

Mr. STEPHENS. Answer the question, Mr. Cole.

Mr. COLE. He never said I could and he never said I could not, but Mr. Lewis has been there time and time again when he saw me using his stationery and his envelopes, and never said a word. When the detective from the Department of Justice came down I wrote my statement up over there, and Mr. Lewis was present, and he did not say I could not use his paper, and I had been using it right along.

Mr. SCOTT. I notice you refer to stationery and letterheads, and Mr. Rothermel refers to franks. What are we to understand about that? Of course, a frank is a different thing from stationery.

Mr. COLE. When I made that statement to the newspapers after he had been making statements right along charging me with everything under the sun, I made statements to several papers and I put them in envelopes and took them over to the press gallery of the House. I had put them in Mr. Lewis's franked envelopes, but I took them over to the press gallery of the House myself, and if any of them got through the mail I don't know how it happened.

Mr. SCOTT. Did you mail any of them?

Mr. COLE. No, sir. If they got through the mail they got through accidentally. When I mailed letters through the mail I always put a stamp on. I may have overlooked it once or twice, as I suppose anybody would. The newspaper reporters had been after me and said: "Mr. Rothermel is charging you with everything; why don't you make a statement?" I made them out and took them over to the press gallery.

Mr. SCOTT. Did you mail them?

Mr. COLE. No, sir.

Mr. SCOTT. To whom did you give them?

Mr. COLE. Over in the press gallery.

Mr. SCOTT. To newspaper reporters?

Mr. COLE. Yes, sir.

Mr. SCOTT. Delivered by your own hand?

Mr. COLE. Yes, sir. I took them over myself, because one man by the name of Amos Brown—I think he represents the Philadelphia Record—and several other men wanted statements. There was so much of it going on at the time that I really don't remember. If one or two of them did slip out in the mail I don't know it. Very likely that might have happened, but if it did I don't know it. I can not state that I did or did not. Mr. Lewis has written me also about the matter, and I wrote and explained it to him.

Mr. ROTHERMEL. To whom did I talk about you? Let us hear that.

Mr. STEPHENS. Let us not go into that, gentlemen.

Mr. ROTHERMEL. He said I had been talking about him.

Mr. STEPHENS. We can not take up every little side remark and follow it out to a conclusion.

Mr. ROTHERMEL. Did you see Miss Kirby about this—about her \$50?

Mr. COLE. Yes; and I asked her, "Do you remember the time I fetched the money for Mr. Rothermel and you refused to sign the paper?"

Mr. ROTHERMEL. I asked whether you saw her lately?

Mr. COLE. I saw her about three weeks ago, perhaps.

Mr. ROTHERMEL. Did you ask whether she would not be willing to come to Reading and testify against me in a libel suit?

Mr. COLE. Yes, sir; because they had written to me to try to find her address and ask whether she would come up, and I did that. I do not deny that.

Mr. ROTHERMEL. Who asked you to go and see her?

Mr. COLE. That is a personal matter of mine.

Mr. ROTHERMEL. I want to know.

Mr. COLE. I will not tell you.

Mr. ROTHERMEL. Mr. Chairman, I think that is right.

Mr. COLE. This is a libelous matter that has nothing to do with this \$9,500 resolution.

Mr. STEPHENS. Let us confine ourselves a little more closely to the matter before the committee.

Mr. ROTHERMEL. These are personal attacks on me, and I think I ought to have some latitude. Mr. Cole was there, and he has acted badly before the Committee on Accounts. He said he would not answer because it would incriminate him, and he has been sending these scurrilous communications out to the newspapers without a frank, and it has all been because my character is being assailed. That is the sum and substance of it.

Mr. WATKINS. Do you mean to say without a frank?

Mr. ROTHERMEL. Yes; without a frank?

Mr. WATKINS. Or with a frank?

Mr. ROTHERMEL. Without a frank. Here it is [indicating].

Mr. WATKINS. You mean without a stamp.

Mr. ROTHERMEL. Oh, yes; without a stamp.

Did you tell Mr. McGuire in that letter that I asked Miss Kirby to date a receipt back?

Mr. COLE. I told Mr. McGuire in that letter what Miss Kirby told me. She said the receipt was dated back six weeks, and that is the reason she refused to sign it. I did not see the receipt, and I have never seen it.

Mr. ROTHERMEL. Why did you write that to Mr. McGuire?

Mr. COLE. Because I had reasons for doing that.

Mr. ROTHERMEL. What reasons did you have?

Mr. COLE. Reasons to show that if Miss Kirby said it, that the reason you wanted it dated back six weeks was to knock out this trouble you had in the House on the Kirby matter.

Mr. ROTHERMEL. Here is the receipt of Miss Kirby [handing the witness a paper].

Mr. COLE. Yes; dated January 30, 1915. That is just a few days ago.

Mr. ROTHERMEL. Read it and then you can see what the truth is.

Mr. COLE. I am not talking about this. I am talking about the incident that happened last April.

Mr. ROTHERMEL. Did not you come to me the very day when I returned to Washington, after that was up in the House, and tell me that Miss Kirby said you should go down and tell the Members there was no truth in what they were saying about me withholding the compensation?

Mr. COLE. How is that?

(The stenographer read the pending question.)

Mr. COLE. No. I think I know what you mean. I was in the gallery with Miss Kirby when the matter came on, on a Saturday, and I went down after the dispute arose that nobody knew who the clerk of the committee was. I went down to call Mr. Madden out, and told him Miss Kirby told me the name of the clerk of the committee was Joseph M. Baker.

Mr. ROTHERMEL. Did not you tell Mr. Madden that Miss Kirby told you it was a mistake?

Mr. COLE. I did not tell him any such thing.

Mr. ROTHERMEL. Didn't you tell me so?

Mr. COLE. I told Mr. Madden who the clerk was.

Mr. ROTHERMEL. She told you that there was no truth in that \$50 business that the Members talked about and that you should go down and tell them?

Mr. COLE. That I should go down? I had nothing to do with the matter.

Mr. ROTHERMEL. Were you sitting with her in the gallery?

Mr. COLE. I was; yes; but what right did I have to go down on the floor? She asked me to tell them the name of the clerk of the committee was Joe Baker and that is what I told Mr. Madden when I called him out.

Mr. Chairman, since Mr. Rothermel has dwelt so much on this franking business here it just reminds me of something I would like to say in that connection that Mr. Rothermel had all kinds of trouble about during my time in his office and had letters from the Third Assistant Postmaster General, Mr. Dockery, in reference to Mr. Elliott using his franks. He went down one time to the office and tried to explain it, Mr. Rothermel saying he had no right to use his frank, and he had told him so, and Mr. Elliott and Mr. Rothermel had a lot of fights about the matter. I suppose he will deny that, but the letter is on file and Gen. Dockery can ascertain the fact. I think Congressman Cramton was one of the men complaining that he was tired of having this man Elliott sending matters through the mail in which he was slandering Mr. McGuire and others.

Mr. ROTHERMEL. Don't you know the Third Assistant Postmaster General showed us the envelope, and it was not even postmarked?

Mr. ELLIOTT. And you came up here and cackled all over the room about it. You cackled all over the room about it; I didn't care anything about it.

Mr. COLE. That has nothing to do with the case, but he brought it up.

Mr. STEPHENS. Let us get down to something that is relevant.

Mr. COLE. Mr. Chairman, he had the privilege of asking me questions, and I would like to ask him one question.

Mr. STEPHENS. He will make a statement after you get through.

Mr. COLE. I would like to ask why Joe Baker was carried on the roll as clerk of that committee.

**TESTIMONY OF HON. JOHN T. WATKINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA.**

Mr. STEPHENS. Judge Watkins, do you want to make a statement?

Mr. WATKINS. I would like to ask Mr. McGuire a question or two, Mr. Chairman.

Mr. STEPHENS. Very well.

Mr. WATKINS. I have been informed, Mr. McGuire, that you read a letter in the record from Mr. Cole in which Mr. Cole made the statement that Miss Kirby had told him that the reason she did not sign the receipt for the \$50 for Mr. Rothermel was because the receipt was dated back. If that is the fact that that letter is in the record, I think, in justice to Miss Kirby, it would be proper for me to ask the question if she did not both telephone you and write to you stating that that was not true?

Mr. MCGUIRE. In part.

Mr. WATKINS. Did not she call you over the telephone and tell you that the receipt was not dated back?

Mr. MCGUIRE. Yes.

Mr. WATKINS. Then did she write you a letter and state that the receipt was not dated back?

Mr. MCGUIRE. Yes; that it was not dated back. That is the letter I had reference to a while ago that I wanted to get and show in connection with the Cole letter. I now have it in my pocket. Miss Kirby called me over the the phone and said to me that Mr. Cole had misunderstood her if he stated that she had said to him that the reason she did not sign the receipt that Judge Rothermel wanted her to sign for the amount due her was antedated six weeks. I told her that I had remembered her making this statement to me shortly thereafter that she did not sign the receipt and he would not give her her money, and the reason she did not sign the receipt was that the receipt did not state the truth. I remember that very distinctly. She said, "I will come up and see you." She came to my office and wanted to make a statement, and I said, "Miss Kirby, the better thing for you to do would be to write me a letter. If you want your letter used, I will use it in connection with Mr. Cole's letters and other letters which are in my possession," that I had a while ago and through inadvertence I did not use; I got to talking about some other things. They are now in the hands of the reporter. She said, "All right; I will write a letter to you stating the facts." She said, "I do not know how much to write." I said, "Simply write the facts." She said, "I feel like I should write you something in connection with what transpired in Judge Watkins's office when this money was paid—this last \$50, which was paid just a few days ago." It was within the last three weeks that we had this conversation. I said, "What transpired?" She said, "Judge Watkins called a halt



on Mr. Rothermel for reprehensible conduct in his office. He said, "That does not go in my office." I said, "I do not care anything about what occurred between Judge Rothermel and Judge Watkins. Just simply state in your letter that circumstance under which this \$50 was paid and how it came to be paid since you returned to Washington this last time, when it has been due more than a year." She said she would write me a letter, which modifies the letter I read this morning with respect to the antedated receipt—the so-called antedated receipt—and gives Miss Kirby's statement. I said, "Miss Kirby, I will read Mr. Cole's letter to the House, then I will follow it with your letter, with my statement of what you have said to me, which was not that it was antedated, but that it did not state the truth, and that there was the money for you and you refused to take it because he wanted you to sign the kind of a receipt which you stated to me was not the truth."

So I have that letter and will read it now if you want me to. I would have read it this morning had it not been that I had left it in my office. I stated to the committee this morning that I would be glad to put it in the record later.

Mr. STEPHENS. Mr. Watkins, we will be glad to hear from you now.

Mr. WATKINS. Mr. Chairman and gentlemen of the committee, I will state that when the allowance of Miss Kirby was before the House for consideration I made a statement with reference to the work that she had done for the Committee on Expenditures in the Department of Commerce, and in connection with that statement it was shown that it was part of a payment due to her by Mr. Rothermel for the private and individual personal work outside of the committee work that she had done, and there was an amount due which had not been paid to her. She married and went off to Iowa a short time after she received the amount from the House which was allowed her for the work which she had done for several months, and upon her return here to Washington I saw her some time during the month of January and told her the facts, that it was claimed that the receipt which Mr. Rothermel had presented to her on April 23 was dated back and that that was the reason she had not accepted the payment. She at once, with a great deal of vehemence, denied that the receipt was dated back, and stated the reason why at that time she did not feel disposed to sign the receipt for \$50 and disavowed the fact that it was dated back.

Mr. STEPHENS. Judge Watkins, what was her reason for refusing to sign the receipt?

Mr. WATKINS. This was a private matter between her and Mr. Rothermel. Mr. Rothermel made a remark to her, she said in the presence of Mr. Rothermel and myself—made a remark to her at the time when he wanted her to sign the receipt which she considered was offensive, and in her petulance, becoming offended on account of Mr. Rothermel's remark to her in connection with the transaction which had happened in the office and in the House, she became offended and threw the receipt down and refused to sign it, and walked out of the office. The remark which was made I hardly think would be proper to repeat here.

Mr. STEPHENS. We are not asking for that.

Mr. WATKINS. It was a personal matter between her and Mr. Rothermel.

Mr. STEPHENS. I could not understand why she would not accept the \$50 due her.

Mr. WATKINS. The fact is, Mr. Rothermel was not here when the question was brought up in the House. He was engaged in the campaign in Pennsylvania, and Mr. Rothermel resented the fact that that was brought up in his absence, and they had quite a controversy about that matter, and Miss Kirby was insisting on payment because she gave me reasons why it was that she should be paid at that time. Mr. Stephens, the ranking Democratic member of the committee, and I took an active interest in seeing that Miss Kirby was paid what we found to be actually due her. There was a personal feeling between her and Mr. Rothermel, largely growing out of that incident of the fact that it was taken up in his absence, and he was not given a proper opportunity of presenting his view of the matter, and the remark which Mr. Rothermel made was calculated to offend the lady, and she took offense at it, and at once left the office.

He presented her this pencil-written receipt, which is not signed, and asked her in my presence whether that was the receipt which he offered to her to sign at the time. She said it looked like the receipt and she could not deny it; she did not say it was not the receipt, however, but that she did not absolutely remember it and she did not deny it. She was asked about the date of the receipt, and while she did not know the exact date, she did not deny the date of it at all. I told Miss Kirby that I thought it was my duty to let Mr. McGuire know the fact; that I had been informed that Mr. McGuire had a letter from Mr. Cole, and it would be an injustice to Mr. Rothermel to have a statement of that kind made on the floor of the House if it was not true, and so I called Mr. McGuire up over the telephone first, and told him the fact, that it was a mistake about the receipt not being dated; that is, it was a mistake that the receipt was dated back; and she then said she wrote him a letter, and afterwards told me she had written a letter to that effect, that it was not on account of not receiving money, but it was another matter, and the receipt was not dated back. Perhaps the members of the committee would not understand the full value of that at first, but if a receipt had been presented to her, dated back, it would have contradicted what Miss Kirby had said before the Committee on Accounts, and it would also have contradicted the statements which her friends had made on the floor of the House, and it was important to know whether a receipt was offered to her, dated back, because it would have contradicted absolutely some of the statements which she had made.

I understand, Mr. Chairman, that the object of this inquiry is to ascertain what compensation Dr. Elliott and Mr. Gallagher are entitled to. If that is the object of it, I will be glad of the opportunity to make a statement with reference to that.

Mr. STEPHENS. We will be glad to hear from you on that point.

Mr. WATKINS. So far as I understand it, that is the only question before the committee for inquiry now.

Mr. STEPHENS. We have strayed off considerably, but that is the matter we want to hear from you about now.

Mr. WATKINS. So far as I recall, the first meeting of the committee which I ever attended was the meeting of the committee at which it was decided by the committee that it was necessary at once to send some one or some persons, one or more, to the seal islands for the purpose of making investigation to determine whether or not the Government had been robbed of a large amount of money, growing out of the seal industry under the contracts which were made with various parties. We examined the law and we found that the committee did have authority to make the investigation, and at that session of the committee, acting hurriedly, as we were compelled to do on account of the season advancing, and on account of the fact that we did not want the parties at interest to know this investigation was going to be made, we agreed that Dr. Elliott and Mr. Gallagher would be sent there for the purpose of making this investigation. They came back with their partial report and facts which they had acquired during their stay in the island. Mr. Elliott began at once to make a compilation of the various reports which had been made on this subject for a number of years, and day in and day out and night after night, and even Sundays. Mr. Elliott was constantly at work for a good many months.

I was in very close touch with the work because of the fact that Mr. Rothermel was at home a great part of the time, he having quite vigorous opposition, and Mr. Stephens was also away, and I was the next ranking Democrat on the committee, and on that account I was in very close touch with the work which was going on in the office. I will say for Mr. Elliott that I never saw a person more laborious, more faithful, more diligent, and who had acquired a more vast amount of information on the subject than he had on this subject of the seal industry. He was indefatigable in his labor and rendered such service as is almost indispensable in connection with the digging up and developing of facts in connection with the depredations which had been made upon the seals, the violations of the contracts on the part of those who made the contracts with the Government, resulting, I believe, in the saving of several million dollars to the Government on account of the work which he was able, through his expert knowledge and through his arduous labors, to present first to the House of Representatives and then to the Department of Justice.

As to Mr. Gallagher, I simply know he was sent there. I do not know the extent of his work, but I do know that with reference to the situation as to Elliott, his labors were very incessant, his work was very effective. I do not believe there is a man living who could have furnished the information that he furnished on that subject.

Mr. STEPHENS. Do you care to say anything further, Judge Watkins?

Mr. WATKINS. No; I simply wanted to let the committee know what work he had done, and how valuable his services had been.

Mr. SCOTT. You say you examined the law and ascertained the committee had authority to make this investigation?

Mr. WATKINS. Yes.

Mr. SCOTT. To what law do you refer, Mr. Watkins?

Mr. WATKINS. The law was collated in Hinds' Precedents, though I believe we also examined the statute from which the law

was taken and also the rules of the House. Hinds' Precedents and the rules of the House were the ones we had immediately before us, but those Precedents referred to the law which was on the statute books. I do not have before me—in fact I did not know the committee was making an investigation until Mr. Rothermel came around to my office a short time ago and told me an investigation was being made, and I learned afterwards that word had been left there for me, but I did not know an investigation was being made until just a moment before I came in here.

MR. SCOTT. Do you mean there is any law extent which empowers this Committee on Expenditures in the Department of Commerce to incur expenses without the action of Congress?

MR. WATKINS. To make the investigation would necessarily carry with it the incurring of expenses. They are authorized to make investigations in connection with committee work, and that would necessarily, as I understand it, carry with it the incurring of expenses. I do not understand it has the right to designate the amount which is to be paid. If the committee had been authorized to do that, it would not have come to this committee. Our understanding was that the Committee on Accounts was the proper committee to refer the matter to on the question of what the amount of the expenditures should be. We could not have told at that time what the expenditures would be. My understanding of the law is that the law authorizes and the rules of the House also authorize the investigations which were made, which would necessarily carry with it the incurring of expenses.

MR. SCOTT. To what particular rules do you refer?

MR. WATKINS. I am very sorry I have not got them before me, but I suppose Mr. Elliott has.

MR. ELLIOTT. It is in my papers if you want it. It makes it a very imperative duty as to the nine committees of the House, the standing rules of the House.

MR. WATKINS. I am reading now from the Congressional Record, in which at that time, in the discussion of this matter of Mr. Elliott's account, I referred to these rules. I there said:

I read from Hinds' Precedents, volume 4, page 831, section 4316, which says: "The several committees on expenditures in the departments of the Government, being charged by the rules with the duty of making investigations, have assumed the right to do so without further specific direction of the House."

That is a question from Hinds' Precedents.

MR. ELLIOTT. Here [indicating] is the standing rule which gives the order to do it.

MR. WATKINS. I will read from the rule of the House, which was also referred to.

Standing rules and orders of the House:  
It shall be the duty of said committees——

MR. STEPHENS. What rule is that?

MR. WATKINS. That is referring to the Committees on Expenditures. It is the law from the Forty-fourth Congress, first session:

It shall be the duty of the said committees——  
that is, the Committees on Expenditures——

to examine and inquire and report whether any and what abuses at any time exists in the failure to enforce the payment of moneys which may be due to the United States from public defaulters and others.

I understand the object of this investigation was to prove that very thing—to show there had been defalcation on the part of those who had made contracts with the Government in connection with the seal-fur industry. That rule covers that matter.

Mr. SCOTT. It was the opinion of the committee from that rule and the citation from Hinds' Precedents which you have just read that that committee would have authority to employ special agents to make this investigation and incur expenses?

Mr. WATKINS. Certainly. The rule there cites the legislative acts on that subject. It would be perfectly useless to have a rule allowing investigations to be made unless there was going to be some compensation to those who were making the investigation.

Mr. SCOTT. I presume that allowance could be made by resolution of the House. I just wanted to get the idea of the committee and the authority upon which they had assumed to act.

Mr. WATKINS. That rule quoting the law on the subject, I think, would cover the case thoroughly. We thought so at the time. The fact they did the work was sufficient.

Mr. SCOTT. You say that Mr. Elliott obtained very valuable information on this trip. What facts did you understand that he obtained while in Alaska?

Mr. WATKINS. I do not base my statements on the value of his services on the fact that he simply went there and made an investigation of the physical facts which then existed and stopped right there; but on that one point I will say, that in going there he found out the manner in which the fur-seal industry was being conducted and the depredations which were being made, by interrogating the inhabitants and citizens there—the people who lived on the island—and he also reported back, and his report shows the weight of the skins; that he made investigations to determine at what age the animals were killed that bore that kind of skin—that size and weight of skin—and he did make very valuable suggestions in his reports which enabled us then to take these various reports which had been made from the departments—to the committees and to the House and Senate previously—and show what the depredations amounted to. It was altogether his work, and not simply going up there and coming back. It was this laborious work which he did, covering several months' time.

Mr. SCOTT. It was after he returned and made his original report?

Mr. WATKINS. He was in the office of the committee from day to day and even late at night, and nearly always on Sunday, working and collating the facts as shown by the various reports which had been made previously, and also furnishing us with the law upon the subject, and even going so far as to give us the price current for the sale of these skins in England.

Mr. SCOTT. That information was gathered from other hearings and documents and various sources here in Washington?

Mr. WATKINS. Yes, sir; vast volumes of documents.

Mr. SCOTT. In that respect he was acting as the employee of the committee?

Mr. WATKINS. Yes, sir; he was acting under the authority with which we vested him in making the investigation and obtaining the facts that would enable us to make a report as the basis of the recovery for the Government of the amount that was involved.

Mr. SCOTT. Do you know whether this matter had been brought to the attention of other departments of the Government before the agents of this committee were sent to Alaska?

Mr. WATKINS. I have been informed that during the former régime attention had been called to the depredations, but I have never been informed of any thorough and efficient investigation having been made, such as to operate as a basis for recovery.

Mr. SCOTT. In these investigations which it was proposed were to be made by Mr. Elliott, had that matter been brought to the attention of the Department of Justice and any consultation had before he was sent?

Mr. WATKINS. Do you mean whether the Department of Justice or any other department of the Government had sanctioned the sending of Mr. Elliott and Mr. Gallagher up there?

Mr. SCOTT. Yes; or was cognizant of their going at the time?

Mr. WATKINS. I am not sure about that. I will not say definitely about that, because what I have is what has been stated since they went up there. I do not know that I heard that stated before they went up there. It was probably discussed before the committee at that time, but I can not state definitely.

Mr. SCOTT. I ask that because Mr. Elliott stated yesterday that the purpose of this investigation by your committee was to obtain information for the Department of Justice.

Mr. WATKINS. There is no doubt about it being for the benefit of the Government—to get information that would operate as a basis for judicial action, either civil or criminal. That was the object of it, but I can not recall right now whether it was before they went, whether it was requested by any department of the Government.

Mr. STEPHENS. I will read what the rule of the House says in regard to the authority of these committees. This has direct reference to the jurisdiction of the various committees, beginning with the very first and going through the entire list.

Expenditures in the several departments.

There are 10 committees on expenditures in the various departments of the Government, etc.—

Whose duties are—

The examination of the accounts and expenditures of the several departments of the Government and the manner of keeping the same; the economy, justness, and correctness of such expenditures; their conformity with appropriation laws; the proper application of public moneys; the security of the Government against unjust and extravagant demands; retrenchment; the enforcement of the payment of moneys due to the United States; the economy and accountability of public officers, etc.

I do not see anything here that would grant authority for an investigation of this kind unless it be this particular matter, “economy and accountability of public officers.”

Mr. ELLIOTT. Yes; and also the moneys that the Government is being robbed of.

Mr. STEPHENS. “The proper application of public money.”

Mr. ELLIOTT. And doesn't it speak of abuses?

Mr. STEPHENS. “The security of the Government against unjust and extravagant demands.” That would not apply.

Retrenchment and enforcement of payment of money due to the United States.

Mr. ELLIOTT. This money is due, which these people robbed the Government of.

Mr. SCOTT. But there are other committees. The question is, to what committees would that apply?

Mr. STEPHENS. It says they shall all be subject within the jurisdiction of the nine departments as follows, and then names the Department of State, the Department of Commerce and Labor, etc.

Mr. ELLIOTT. And these seals come under the Department of Commerce. That is the very point—to compel the return of the moneys the Government has been robbed of.

Mr. WATKINS. If there is nothing further, Mr. Chairman, I will ask to be excused.

Mr. STEPHENS. Very well, Mr. Watkins.

Do you want to make a statement, Mr. Rothermel, or have you said all you care to?

**TESTIMONY OF HON. JOHN H. ROTHERMEL, A FORMER REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA.**

Mr. ROTHERMEL. I simply want to state that Mr. Cole came to the office and asked for employment when Miss Kirby left, I told him distinctly and clearly that if he would want to work for \$12.50 a week he could do it; that somebody else was the clerk of the committee and I expected him back, and that is the understanding there was about it. He has never mentioned it until he made these attacks on me, and now says that I owe him \$125 a month, and we never spoke about it in our lives.

Mr. SCOTT. Your understanding was that the \$50 a month was the entire compensation which he was to receive for all his services?

Mr. ROTHERMEL. He had been working for Congressman Lewis here, and I expected he was getting compensation from him, and that was our understanding, and I told him that as soon as Baker came back that would end him.

Mr. SCOTT. But your understanding then with him was that the \$50 a month which you were to pay him was to be in full of all compensation for services performed for you as your secretary, and also all services performed by him in connection with the clerkship of the committee?

Mr. ROTHERMEL. We did not make any specific contract about that. I told him that was what he could get.

Mr. SCOTT. Was that your understanding?

Mr. ROTHERMEL. Yes; absolutely.

Mr. SCOTT. That \$50 a month was to cover every part of his service performed for you personally and for the committee?

Mr. ROTHERMEL. Whatever work was to be done in the office. The fact is the committee had hardly anything to do then any more. When we had hearings we had no clerk to the committee. That was during the summer, because we did not get any clerks to these committees until December, and the work of the committee was really practically over.

Mr. SCOTT. When did Mr. Cole begin work for you?

Mr. ROTHERMEL. I think it was about the 1st of May.

Mr. SCOTT. What year?

Mr. ROTHERMEL. 1914.

Mr. SCOTT. That was after Miss Kirby had left?

Mr. ROTHERMEL. Yes. She left in April, and there was absolutely no other understanding about it. He makes demands here for money on everybody and wants it from me and wants it from Mr. Elliott.

Mr. SCOTT. We have gone into some matters here that seem, of course, rather far-fetched, but they are here, and as long as they are here I want to get the right understanding and not the wrong understanding. This man Baker's name has been mentioned. When did he first become clerk of this committee?

Mr. ROTHERMEL. In December.

Mr. SCOTT. What year?

Mr. ROTHERMEL. 1913.

Mr. SCOTT. When did he cease to be clerk of the committee?

Mr. ROTHERMEL. I kept him on the roll until this other matter came up in the House about the Kirby business.

Mr. SCOTT. Until what time was that?

Mr. ROTHERMEL. That was until the 18th of April. On the 23d I answered those charges over there, and then I told them in the House that Mr. Baker had been away and that as soon as he came back he could have his place, and I told Mr. Cole so when he came there.

Mr. SCOTT. When was he taken off the roll?

Mr. ROTHERMEL. He was on the roll.

Mr. SCOTT. When was he taken off?

Mr. ROTHERMEL. I divided the checks between him and Cole.

Mr. SCOTT. When was Baker taken off the roll?

Mr. ROTHERMEL. He drew his last check in November, 1914.

Mr. SCOTT. Was he taken off the roll at that time?

Mr. ROTHERMEL. Yes. Congress adjourned then.

Mr. SCOTT. Was Baker present at any time that he was on the roll and did he perform any service here in Washington?

Mr. ROTHERMEL. Oh, yes.

Mr. SCOTT. How long?

Mr. ROTHERMEL. I can not tell you about that, but he was here and drew his checks. I want to say this also: I have allowed him latitude then when he was ill. He went out and saw his sister. Every day in the year when he was done here in the folding room he stopped and helped me without any compensation at all.

Mr. SCOTT. He worked in the folding room before he became clerk of the committee?

Mr. ROTHERMEL. Yes. There was no compensation for him, and he was at my office every day and helped me.

Mr. SCOTT. When did he go back to Ohio and leave Washington with respect to the time he was first enrolled as committee clerk?

Mr. ROTHERMEL. I really can not tell you that without, probably, looking into some memoranda.

Mr. SCOTT. Was it just a few days or a few weeks?

Mr. ROTHERMEL. You mean after he was made clerk?

Mr. SCOTT. After he became enrolled as clerk of the committee?

Mr. ROTHERMEL. I think he went away after he had been there about three months. He went away to see his sister and became ill.

Mr. SCOTT. Did he ever afterwards return and perform any services?



Mr. ROTHERMEL. Oh, yes; he was here afterwards.

Mr. SCOTT. To perform services?

Mr. ROTHERMEL. He was about and helped whenever he was here.

Mr. SCOTT. When was that?

Mr. ROTHERMEL. After he came back.

Mr. SCOTT. When?

Mr. ROTHERMEL. I just said about three months or so after he was designated as clerk.

Mr. SCOTT. I understood you to say he left here and went back to Ohio about three months after he was designated as clerk.

Mr. ROTHERMEL. No; he went out on a visit and became ill.

Mr. SCOTT. Then he went out on a visit immediately after he was designated as clerk?

Mr. ROTHERMEL. No; I just said about two or three months after he was designated as clerk.

Mr. SCOTT. Then he came back how long after that?

Mr. ROTHERMEL. I think he was here in June—May and June—and I got along with these two fellows and had told them what they were to do.

Mr. SCOTT. This matter was up in the House in May, was it not?

Mr. ROTHERMEL. No; that was in April. I wish to state this, that these two men have all the money of the secretary of the committee.

Mr. SCOTT. What two men?

Mr. ROTHERMEL. Cole and Baker. They tried to make it appear—

Mr. SCOTT (interposing). Has Cole received more than the three months which he enumerated this forenoon?

Mr. ROTHERMEL. Cole received \$50 a month when Baker could not come. I told him that we would have to get Baker's receipt. I told him to go over to the disbursing office and find out what was required; otherwise it would have to be sent on to Baker if he did not come. He went over and told me that they told him in the office that if Baker's receipts were filed, then they would pay him the money. Every first of the month he had it ready and went and got the money and kept his \$50 that I had promised to pay him out of it. He had the money in his possession.

Mr. SCOTT. Did you have another clerk in your office during the past summer, when Cole was with you, who acted as your secretary?

Mr. ROTHERMEL. I do not know that he acted as my secretary.

Mr. SCOTT. I am getting confused in this matter, there are so many of them.

Mr. ROTHERMEL. I wish you would let me finish the other proposition I was on. Then he went to the disbursing office and took Baker's receipt and they told him, so he told me, that they would pay him the money if Baker's receipts were filed. Then when September came and he asked me to loan him \$25 for his family when he went to Allentown. He went to the Clerk of the House and persuaded him to give him the October check for \$125, and he kept the \$25 and the \$125 and concealed it from me until I requested him twice to go and get Baker's check.

Mr. SCOTT. And all that money—

Mr. ROTHERMEL (interrupting). One moment; you asked how much he received. May, \$50; June, \$50; July, \$50; August, \$50;

September, \$50; and the \$125 that he took for October. How much does that make?

Mr. McGUIRE. \$375.

Mr. ROTHERMEL. And the \$25 he borrowed from me at the Cochran Hotel for his family.

Mr. SCOTT. That is \$400?

Mr. ROTHERMEL. Yes.

Mr. SCOTT. Commencing with April?

Mr. ROTHERMEL. Yes.

Mr. WATKINS. Not the 1st of April.

Mr. ELLIOTT. Miss Kirby was paid up to the end of April.

Mr. SCOTT. Baker received how much a month during that time?

Mr. ROTHERMEL. Baker received the difference in the checks.

Mr. SCOTT. Between what Cole got and the total check?

Mr. ROTHERMEL. Yes.

Mr. SCOTT. That would be the check that went to the clerk of the committee that you refer to?

Mr. ROTHERMEL. Yes.

Mr. SCOTT. The check that went to your private secretary—you had another secretary that received that?

Mr. ROTHERMEL. Oh, yes; Miss Young is my secretary at home. She takes care of the offices at home.

Mr. SCOTT. So your secretary at your home in Pennsylvania drew the \$125 a month?

Mr. ROTHERMEL. Yes.

Mr. SCOTT. She has drawn that during all this period?

Mr. ROTHERMEL. Yes; she has been my secretary ever since I have been in Congress. I ought to say this, that Miss Kirby drew \$50 and that was taken out of Miss Young's check.

Mr. SCOTT. But after Miss Kirby left, Miss Young drew the whole \$125?

Mr. ROTHERMEL. Yes.

Mr. SCOTT. But she never performed any services here in Washington?

Mr. ROTHERMEL. She was here occasionally, but she takes care of the offices at home. I have more work over there almost than in Washington. I have a statement somewhere, and I really do not have it with my papers here, but it is in my office, where I could give you the details about the money that was paid out, and I want to say in this connection that I have a son and I have two brothers that could have done this work better than Cole did and also the secretary, but I never took on any of the relatives, and they were constantly on my heels for jobs, and I divided these checks somewhat as a matter of charity and to do effectual work.

Mr. McGUIRE. Mr. Chairman, I am feeling so badly that I believe I will have to go to my office. I did not want to read this letter into the record. I spoke about it this morning.

Mr. STEPHENS. You may do that now.

Mr. McGUIRE (reading):

2666 I STREET NW.,

Washington, D. C., February 2, 1915.

HON. BIRD S. McGUIRE,

House of Representatives, Washington, D. C.

DEAR MR. McGUIRE: In regard to the request you made of me by telephone some days ago that I verify certain statements in the letter referred to by you—

I made no request by telephone, but the young lady called me. She had heard certain something about it, and I presume from what Judge Watkins states that there had been something said about it.

I wish to say that I can not verify the statements contained in the letter to the effect that Mr. Rothermel wished me to sign a receipt dated six weeks back. In fact, I wish to deny that statement, and in regard thereto I submit the following:

The writer of the letter in question, Mr. Charles L. Cole, telephoned me the latter part of October, 1914, asking to see me about a matter which he said concerned me vitally. More than surprised, I asked the nature of the matter. He did not wish to discuss it over the telephone, but could he see me? Yes; he could. Where? At my home. He came to my house one day after noon, in late October, and among a maze of comments upon Mr. Rothermel's affairs, he asked me if Mr. Rothermel had not demanded that I sign a receipt that was antedated. I replied quite positively in the negative. The gentleman then said to me, "Oh, I thought he did." I said, "No; Mr. Rothermel desired that I sign a single"—

Here she seems to give the reason for not signing the receipt.

"Mr. Rothermel desired that I sign a single receipt covering the entire time during which he had employed me." But I wished to sign a separate receipt for each separate payment which he made to me, and include in each such receipt the date upon which the money was due as well as the date upon which the money was paid, so that those receipts would bear out any statement regarding the inconvenience that I had experienced in receiving the payments in question. The mildest thing I can say is that Mr. Cole has very radically misunderstood me.

Another statement made in the letter in question leaves the impression that Mr. Rothermel still owes me \$50. This was entirely correct at the time the letter in question was written, but to avoid any further misunderstanding I wish to state that on Saturday, January 30, 1915, Mr. Rothermel paid me that amount in the presence of Judge Watkins, of Louisiana. Upon the advice of Judge Watkins I signed a receipt, which, though not entirely to my liking, Mr. Rothermel seemed anxious to have, and he said, among other things, that he had been at a grave disadvantage by not having the receipt long ago. In connection with the signing of this receipt, Mr. Rothermel evinced some annoyance with me because, as he said, I had made the statement that he had demanded my signature to a receipt which he has antedated, and he gave as his authority for the assertion the name of the gentleman who has written the same thing to you. My reply to Mr. Rothermel was to the effect that the same gentlemen had not only said it, but had written it. I did not, however, indicate that you were my authority for it.

Mr. Rothermel also desired that I append to this receipt a statement to the effect that there had never been any difference between us in regard to money. I refused, as I could not in honesty do this. He expressed the fear that I would show the receipt, and therefore refused to allow me to make a copy for myself—a copy of the receipt.

I doubt the wisdom of dwelling at any further length upon this unpleasant topic, but I do wish to reiterate that the statement that Mr. Rothermel wished me to sign an antedated receipt is not true, and that while my interview with Mr. Rothermel last Saturday was at intervals other than serene, Mr. Rothermel did pay me in full.

I regret indeed that any conflict has arisen, but I thank you very much for having acquainted me with these facts and for the opportunity to make a true statement regarding the same.

I am, very respectfully,

KATHARINE KIRBY HUMMEL.

Mr. WATKINS. She has subsequently married a gentleman by the name of Hummel. Subsequent to the time this first receipt was offered her to be signed she married a man by the name of Hummel and now lives in Iowa.

Mr. McGUIRE. That is my understanding.

There has been something said about franked envelopes. This document [indicating] with these drawings and these clippings and

comments thereon and various other articles and interlineations and clippings, one paragraph here and at some other point another paragraph, brought in such form as to indicate it was continuous reading, with this letter [indicating] was handed to me by Dr. Everman. Whether this went through the mails, I do not know. It came to me in that form, addressed in Mr. Elliott's handwriting, to Dr. Chester H. Stiles, Board of Public Health, Washington, D. C.

Mr. STEPHENS. Is it postmarked or not?

Mr. McGUIRE. There is no postmark on it. This was handed to me by Dr. Everman. These other documents which I exhibit here to the committee, with clippings and, in the handwriting of Mr. Elliott, comments on the clippings, pictures seemingly clipped from papers, periodicals, or something, and all sorts of comments, were also handed me by Dr. Everman, having been sent him, some of them by Dr. David Starr Jordan, and others with the statements that they have been inclosed to them under frank. That is in Mr. Elliott's handwriting. I know his work and his handwriting.

Mr. ELLIOTT. I do not deny sending them out or handing them under frank, but not through the mails unless stamped.

Mr. McGUIRE. Some time ago I received a letter from Mr. Ferris and a few others, commenting about the abuse of the franking privilege, and I told my secretary to save them, but the only things I could find are these, left with me by Dr. Everman. Mr. Ferris could tell you, and I can get the names of several other Members, if the committee desires them.

I merely incidentally throw these things in for whatever they may be worth.

Will the committee be kind enough to excuse me now?

Mr. STEPHENS. Certainly, Mr. McGuire.

(Mr. McGuire thereupon withdrew from the committee room.)

Mr. STEPHENS. Is there anything further, Mr. Rothermel?

Mr. ROTHERMEL. In this connection I want to make a statement about this Kirby business. I was away on the 18th of April when the Kirby resolution came up in the House. I had no knowledge of it, and do not attach any blame to anybody for having considered it, only the House was not in possession of the facts that I had paid Miss Kirby according to the contract we had. The records of the 18th of April will show it, and she had been paid seven months, and the eighth month had not been due then. The fact is, the month was up, I think, on the 21st of April, but I took her \$50 out of the secretary's check and that was not payable until the end of the month. That was the contract. On the 23d of April I appeared before the House and then the truth came out, that that was all a mistake. It was not only an attack on me there without my knowledge, but it was really untrue. When I came back to Washington, Cole came to see me and said what had happened in the House and came and said that Miss Kirby told him that that fact was not true, that I had paid her what I agreed to pay, and he told me that he went and called Mr. Madden out and told him the thing was a mistake, and that Miss Kirby said it was, and they were sitting in the gallery together.

Then, on the 23d, I took the floor and submitted the truth under the question of personal privilege, and then the whole thing came out that she had been paid. She told Lloyd so, and Lloyd stated it on

the floor of the House. Everybody knew the truth, and when I came over to the office then Miss Kirby came in and was excited. She was sitting in the gallery and perhaps she thought that I was severe; but I was not, to anybody in the House, as the record will show, but she was somewhat flustered. She had carried my mail out of the office. We talked about that, and I sent for the money and offered her the money, but I did not want her to sign a general receipt only for the last month, and wanted it "Balance due for services" from such and such dates. The lead-pencil memorandum there shows that. The idea was not that she should sign this lead-pencil note. I asked her to write it on the typewriter. I had just drawn that as a model, and that receipt says that it is balance in full for services from such and such date to the 21st of April. Then I said, "You failed to sign the receipts and put them in the desk," as she did the first three, and I said, "You have your money; just sign the receipt and put it inside of my desk."

Mr. SCOTT. That is the 21st of April of what year?

Mr. ROTHERMEL. 1914.

Mr. WATKINS. The 23d of April, because the receipt is dated the 23d.

Mr. ROTHERMEL. When I appeared before the House: yes. But her month was up on the 21st of April.

Mr. SCOTT. She quit you then?

Mr. ROTHERMEL. Yes. She wrote me a letter that I received at home a couple of days before.

Mr. SCOTT. And you had been paying her \$50 a month?

Mr. ROTHERMEL. Yes; according to the distinct understanding, the same as I had with Cole.

Mr. SCOTT. You had been dividing the check between her and Baker before that?

Mr. ELLIOTT. No; Miss Young.

Mr. ROTHERMEL. Miss Young. We had no clerk to the committee until December.

Mr. SCOTT. Between December and April you had been dividing the check between her and Baker? Between December, when Baker was first enrolled, and April, when Miss Kirby left, you had been dividing the clerk's check between Baker and Miss Kirby?

Mr. ROTHERMEL. Baker was here.

Mr. SCOTT. From December to April?

Mr. ROTHERMEL. Yes. He was here, I think it was, from December to April. I really can not tell that exactly without my memoranda. Baker was here, and I think he was here until April or March, but I will not be certain of that, because I really do not recall it exactly.

I was not quite through with that receipt business that happened in Judge Watkins's office. Miss Kirby walked out of the office and said that she made no claim to the money: that she did not like to sign that receipt, and I said to her, I said, "You have received \$1,200; I think you ought to send the money to Miss Young." She said she made no claim to it, and she disappeared entirely.

Mr. SCOTT. What money was that that should be sent to Miss Young?

Mr. ROTHERMEL. The \$50.

Mr. SCOTT. The \$50 she had received?

Mr. ROTHIERMEL. Yes. I said, "In all fairness, I think Miss Young ought to have that money, because you drew \$150 a month from the House." Anyhow that was in the conversation. Then she walked out, and said she wished me all the good luck, and so on, and gave me the impression she would never come back for the money. Then I received a letter from her, Judge Watkins has the letter, asking whether I would not be willing to pay her the \$50. I went to see Judge Watkins and asked whether he could not get her to the office and then we would straighten the thing up. Then we straightened it up, and cleared it up just as the receipt indicates here.

I can not understand why that Kirby business shall be brought before this committee, when these men knew the truth. Cole knew it because Miss Kirby told him it was not right; he told me so. McGuire knows it; he heard it in the House. Cole knew it according to the Kirby letter that was read. McGuire knew it and he brings that letter in here and holds back the other one until he was pressed this afternoon. Why should this matter, about which I was libeled at home, be brought in here when they know the truth is different? That is the thing I can not understand, either on the part of—well, I do not expect much from Cole, but either on his part or on the part of McGuire. Why did McGuire bring Cole's letter in here after he was told that that was a mistake? I do not want to be condemned by a lot of people who do not care for the truth and who have black schemes in their hearts. I went through that, and I am going to finish this, and it will only take a minute. They took the record of April 18, and of the 23d, when I was in the House. They garbled it, they forged it under the laws of Pennsylvania, and they published it to make it appear that I had stolen this money. This man Cole saw it, and knew it, and told me how false and malicious and libelous it was. He knew all about it, and yet he writes McGuire a letter that I wanted the receipt dated back. What occasion would I have to date the receipt back when the money was due? What occasion would there be for me to do it? How would it help my case? The fact of the matter is I could have said to her, "You will have to wait until the secretary's check comes in." I paid her a week ahead of time according to contract.

I have brought libel suits at home. I must get protection for my character somehow, and that men should come here and follow it up, when they know it is a lie, is beyond my understanding and comprehension.

There is Mr. Elliott. When this check transaction came up in the House Mr. Elliott was sitting there, and I said to Elliott, "Here is something that happened that is wrong." I told Mr. Elliott that Cole had taken Baker's check and concealed it from me and Mr. Baker. He coaxed it out of the Clerk of the House. Then Elliott said, "Why, Cole, you made a mistake." He kept on talking and told him that he had no right to do it, but he had done it and he told us there that he needed the money for his family. Mr. Elliott will bear me out—at least he told me—that Cole demanded from him, and I think from Gallagher, too, that I would be given a day's time to make him clerk of the committee—a threat—and if not he would do me harm, and instead of making him clerk of the committee I kicked him out.

Mr. STEPHENS. Who told you that?

Mr. ROTHERMEL. Mr. Elliott told me that—that Cole told him that he would give me 24 hours' time to make him clerk of the committee after he had stolen the check.

Mr. STEPHENS. You mentioned Mr. Gallagher. Did you hear that, Mr. Gallagher?

Mr. GALLAGHER. No; he never made any such statement to me. Mr. Cole never made that statement to me.

Mr. ROTHERMEL. Did he say anything to you about it?

Mr. GALLAGHER. No, sir.

Mr. ROTHERMEL. Then I am mistaken about that. He said, "He dares go after me," after he had the \$25 he borrowed from me and had \$50 out of his monthly check, and then \$125 check besides, and his wife writes me a letter that he had not paid her a cent.

Mr. STEPHENS. How long did you keep Mr. Cole after this \$125 check incident?

Mr. ROTHERMEL. Just until the next day.

Mr. STEPHENS. He left your employ, then, early in September?

Mr. ROTHERMEL. Yes.

Mr. COLE. No, sir; the 1st of October.

Mr. ROTHERMEL. The 1st of October; yes. He took the October check in the disbursing office. The clerk gave it to him and he went to Allentown and signed Baker's name on it and passed it in the Lehigh Valley Trust Co., and from there it passed through the Philadelphia banks, and I did not find it out until the check was cashed. Under the Pennsylvania laws it is as clear a forgery as you can define for uttering a forged instrument under the law.

Mr. STEPHENS. Reference has been made to Mr. Baker and his absence from Washington, and some letters have been referred to. I note in one of these letters reference is made to the fact that you owe Baker a note. Did you owe Baker anything?

Mr. ROTHERMEL. Mr. Chairman, let me tell you, I really would prefer to answer that in another way. These letters I never saw. They are either forgeries or they are stolen goods. I have never seen them until now. I do not owe Baker any money, and it would be ridiculous. Baker, as I think, received in the neighborhood of a thousand dollars, and Baker never had, perhaps, \$100 to his name.

Mr. STEPHENS. In one of the letters Baker wrote you that if you would let him have half of the clerk's salary that he would destroy the note or would not hold the note which you owed him against you. To what does that refer?

Mr. ROTHERMEL. I really do not know. I never saw it. Cole opened my mail and he took this out, and I do not know anything about it. I have been trying to get hold of these letters. He boasted about it or put it in the newspapers, and I do not know whether Baker wrote that or not; but let me say this to you, Mr. Chairman, and I may make another statement in writing or in any way that the committee will see fit, but I do not like to answer here when I have not seen the letters, and I never wrote any letters to Baker about it.

Mr. STEPHENS. You can see the photographic copies of the letters, if you care to. We have not the originals; they are with the Department of Justice, I understand.

Mr. ROTHERMEL. Ask Cole whether he has the original.

Mr. STEPHENS. No; I just stated they are with the Department of Justice.

Mr. COLE. That is where they are; yes.

Mr. SCOTT. That would not be at all material. As I understand, Mr. Rothermel says he did not owe Baker any money at all at that time. That was in March, 1914.

Mr. ROTHERMEL. Let me tell you.

Mr. SCOTT. Is that correct?

Mr. ROTHERMEL. What?

Mr. SCOTT. You say at that time, at the time the letter purports to have been written, in March, 1914, you did not owe Baker any money at all?

Mr. ROTHERMEL. No; I did not, and what is more than that I never saw these letters and never answered them. They were taken out of my office and opened, if they ever came there.

I was going to say something else there, Mr. Chairman, in answer to your question. Baker, as I said before, worked for me nearly every day in the year when I was in Congress without any compensation at all, and that was the reason why I asked him to be the secretary or the clerk of the committee; and, besides, you can trust him, and there has not been the slightest understanding of anything at all about paying off a note out of the clerk's salary.

Mr. SCOTT. There was no note?

Mr. ROTHERMEL. No.

Mr. SCOTT. I noticed in one of these letters, also, he mentions that he will send you a note.

Mr. ROTHERMEL. I do not know anything about that.

Mr. SCOTT. Or return you a note.

Mr. ROTHERMEL. I really do not know a thing about it. I did not see these letters at all. Here we are dealing with a man that opens the mail in a man's office—a confidential clerk.

Mr. SCOTT. Where does this man Baker live?

Mr. ROTHERMEL. Baker lives in Washington.

Mr. STEPHENS. Is he here now?

Mr. ROTHERMEL. Yes, sir.

Mr. SCOTT. Do you know by whom he is employed now?

Mr. ROTHERMEL. No; I do not. He has bought a small property here.

Mr. SCOTT. Is he in the Government employ?

Mr. ROTHERMEL. No.

Mr. COLE. I think Mr. Rothermel ought to know. His wife is in his office. He ought to know where Baker is.

Mr. ROTHERMEL. I do not know where he lives.

Mr. SCOTT. Do you know Baker?

Mr. COLE. I say his wife is in Mr. Rothermel's office.

Mr. SCOTT. Baker's wife is in Mr. Rothermel's office?

Mr. COLE. Yes; Mr. Rothermel and Mrs. Baker are together lots of times.

Mr. ROTHERMEL. I was asked where he lives. I do not know where he lives. I have not inquired about that at all.

Baker received probably \$1,000. How could he ever hold a note from me for such an amount of money?

That is about all I have to say, Mr. Chairman.

Mr. STEPHENS. All right; that ends the matter.



## FURTHER TESTIMONY OF MR. CHARLES L. COLE.

Mr. COLE. Mr. Chairman, I would like to make a further statement.

Mr. STEPHENS. We will hear from you very briefly.

Mr. COLE. In the first place, Mr. Rothermel said he had no respect for anybody that did not answer the truth. Under the personal privilege he tried to explain this matter on the floor of the House, and he said this:

On April 13, 1914, I received the following telegram:

"Please wire at my expense, as requested, if nothing but clerkship can be landed for the present, as doctor says operation is necessary, and I prefer to be in Washington.

"JOE BAKER."

I do not know what is wrong with the young man, but it is an official matter, and the work is done. I did a great part of the work that the clerk ought to do, but I did not mean to lay off Joseph M. Baker simply because he became ill, when he had asked leave of absence for 10 days on account of his health.

Mr. WOODRUFF. Yes; but he had leave of absence extended to him for 10 days, and he has been absent for four months.

Mr. ROTHERMEL. That is true, and I have explained it to the gentleman.

He tried to state that Baker left Washington in April when he left in January, 1914, and he was never in Washington since until June, when he came back about the Kirby matter.

Mr. ROTHERMEL. Mr. Baker asked about getting some other clerkship in the Government. It was not this committee clerkship at all.

Mr. SCOTT. Then is it your present recollection he did leave in January?

Mr. ROTHERMEL. I really could not tell you that. I said so a while ago that I could not state definitely. I know he was here afterwards, but he became ill and I explained it to the House.

Mr. STEPHENS. That seems to be all.

Mr. COLE. I would like to state that after the Department of Justice made this investigation they sent an agent out to Ohio to interview Baker, and among other statements he made he said that he did hold a note against Rothermel and this is the way he was being paid off. Those records are in the possession of the Department of Justice—I think, in Mr. Bielaski's possession—and the Department of Justice has photographic copies of those letters, and I call the attention of the committee that this letter was dated March 4, and came to Mr. Rothermel over two months before I came to him.

Mr. ROTHERMEL. Let me see those letters. I never saw them.

Mr. COLE. I will hand these photographic copies to the chairman.

(Mr. Cole handed the papers to Mr. Stephens, who handed them to Mr. Rothermel, who examined them.)

Mr. ROTHERMEL. Mr. Chairman, this one states he wanted to make a proposition to me. There was not the slightest understanding on my part about anything.

Mr. SCOTT. When did Mr. Patton come on this committee?

Mr. ROTHERMEL. He was on for two terms.

Mr. ELLIOTT. Sixty-second and Sixty-third Congresses.

Mr. ROTHERMEL. He and McGuire were both on.

Mr. STEPHENS. Baker said in this letter, "If you will let me have my half of the clerk's check I will call off the note I hold."

Mr. ROTHERMEL. I do not know what he means about that. As long as he was not here this man had knowledge that the checks would be divided. There was not the slightest understanding at all. These letters I never saw. This letter was taken out of my office and opened.

Mr. STEPHENS. I call your attention to the fact that this letter is dated March 4, which was a couple of months before Mr. Cole began work for you.

Mr. ROTHERMEL. I did not get that letter. That was opened.

Mr. STEPHENS. I believe this concludes the matter. The committee will stand adjourned.

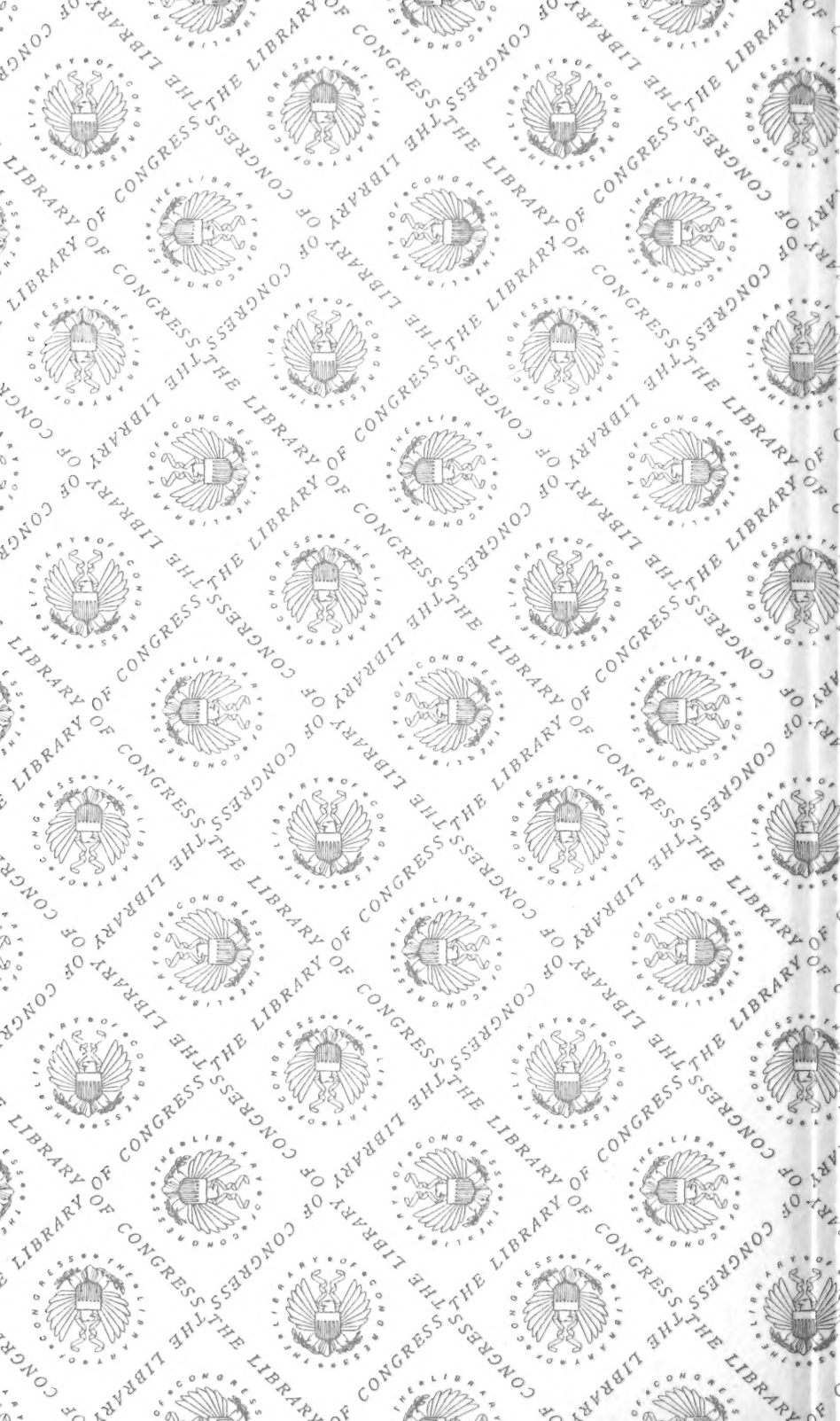
(Thereupon, at 5.45 o'clock p. m., the committee adjourned.)

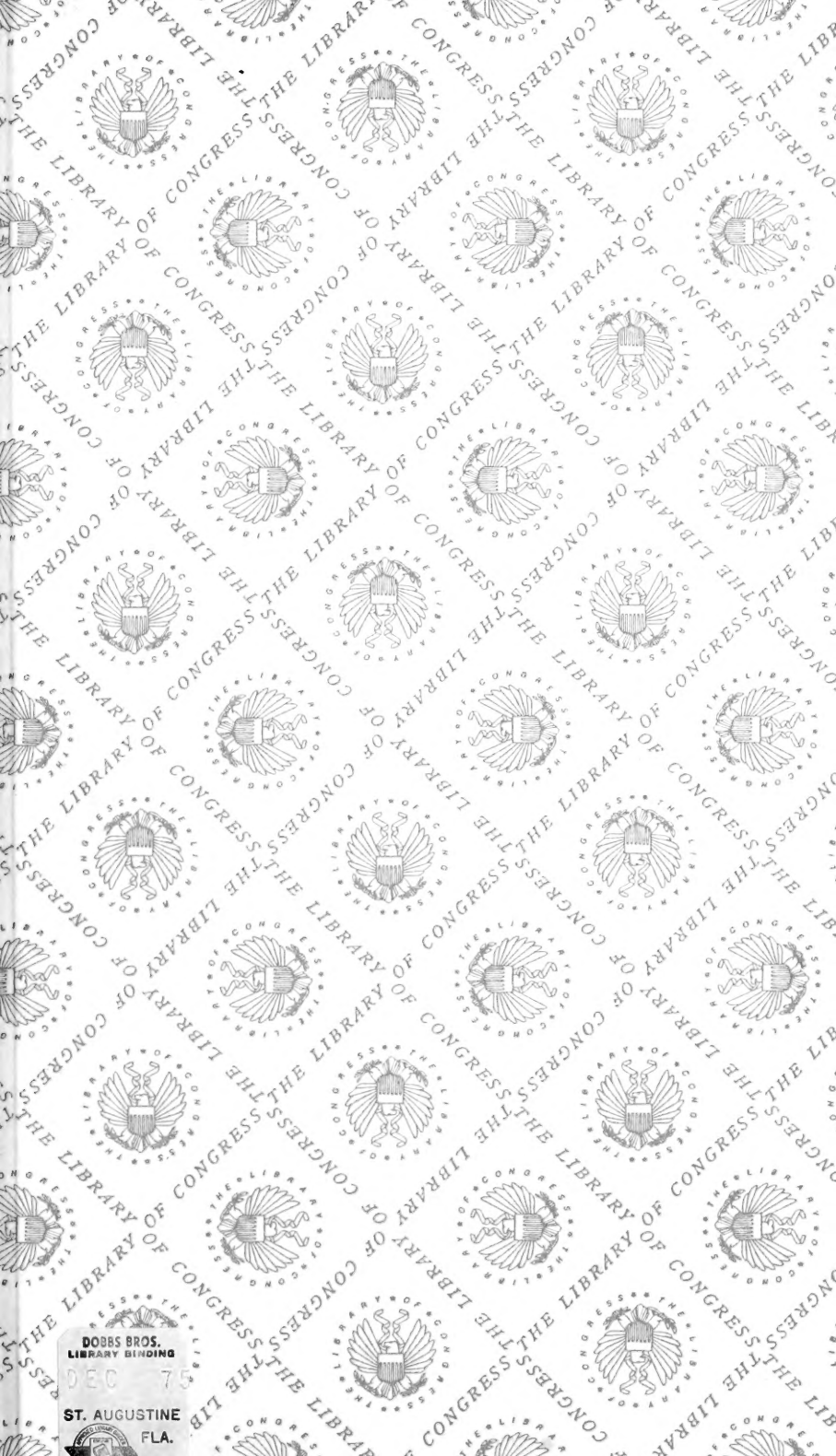
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